TIMELINESS AND QUALITY OF THE PROCESSING OF CLAIMS BY THE VETERANS BENEFITS ADMINISTRATION

HEARING

BEFORE THE

SUBCOMMITTEE ON

COMPENSATION, PENSION AND INSURANCE

OF THE

COMMITTEE ON VETERANS AFFAIRS

HOUSE OF REPRESENTATIVES

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TIMELINESS AND QUALITY OF THE PROCESSING OF CLAIMS BY THE VETERANS BENEFITS ADMINISTRATION

TUESDAY, MAY 9, 1989

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMPENSATION,
PENSION AND INSURANCE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D. C.

The subcommittee met at 9:10 a.m. in room 334 of the Cannon House Office Building, the Hon. Douglas Applegate, chairman of the subcommittee, presiding.

Present: Representatives Applegate, Parker, McEwen, Penny, Evans, Sangmeister and Bilirakis.

OPENING STATEMENT OF CHAIRMAN APPLEGATE

Mr. APPLEGATE. Good morning, ladies and gentlemen. We are meeting this morning to hear testimony regarding the operation of the Veterans Benefits Administration, formerly known as the DVB, with particular emphasis on the quality and timeliness of the processing of claims for compensation and pension benefits.

Unfortunately, the trend of increasing processing times for these claims is continuing and worsening. To make matters worse, we are also seeing a deterioration in the quality of these decisions, which has led the Administration to lower its standards, and there is no excuse for this.

I have stated over the years that reductions in staffing have been the main culprit for these declines in performance. Other than simply adding additional staff, which is easier said than done, I am interested in hearing about any reasonable initiatives or recommendations that would help to turn around this unacceptable performance.

Hopefully, today's hearing will help to raise everyone's level of awareness and promote positive action to solve some of the problems that VBA is now facing.

In addition to representatives from the Central Office, I have invited adjudication officers from Cleveland, Denver, Montgomery, and Winston-Salem to join us so that we may be able to get their local perspective on these and other issues, and of course we are also looking forward to the invaluable input the veterans service organizations will be able to provide us in this area.

And at this time I would like to recognize the vice chairman of the committee, Mr. Bob McEwen from Ohio.

OPENING STATEMENT OF HON. BOB McEWEN

Mr. McEwen. Thank you, Mr. Chairman.

I look forward to hearing from our distinguished panels this morning because, quite frankly, I share many of the frustrations with the processing of claims that our chairman has already expressed and which our guests will detail later.

It is difficult to read these excellent statements without surrendering to the strong suspicion that this Nation should be able to do a better job of processing veterans benefit claims. We all know the Federal Government is an ungainly bureaucracy with enormous administrative and managerial responsibilities. We all understand the size of the task that confronts the Veterans Benefits Administration.

But I know I speak for every member of the committee, indeed other Members of Congress, when I say that our constituents are remarkable in their ability to report on the efficiency with which our Federal Government operates. They do so every day by phone, by letter, by telegram, by overnight mail, fax machines, and a host of other means. Many come right to our offices or meet us on the street to let us know what they think of the way Federal programs are being administered and affecting their lives.

Of all the reliable sources of voter discontent and agitation, including Social Security, the Internal Revenue Service, and Medicare, to name a few of the standbys, I can think of no subject which generates as much communication or ire as the veterans claims system. Our office bulges with cases of veterans who are still awaiting resolution of claims. Some of those veterans will not live long enough to see their cases resolved.

I don't wish to indict the Veterans Benefits Administration. I am satisfied that for the most part VBA does a good job given the scarcity of resources with which it is forced to cope. Clearly, some refinements are called for, though.

During this hearing I look for the VBA panel to give us all reason to hope and expect that the system will one day provide the type of precise, timely answers that veterans deserve and have been a hallmark of the system in years past. If the problem is organization or poor management, we would like to hear about it. If the problem is a lack of adequate funding to do the job, then they should say so.

Let's not conclude today's business without having identified the true sources of these endless delays and without some prescriptions for doing a better job in the future, the near future.

Thank you, Mr. Chairman.

Mr. Applegate. Thank you, Mr. McEwen.

If any other members have any remarks they would like to make at this time, they shall be recognized.

Mr. Parker.

OPENING STATEMENT OF HON. MIKE PARKER

Mr. Parker. Thank you, Mr. Chairman.

I also want to thank the individuals from the many veterans service organizations who have taken the time to testify before the subcommittee. I also want to thank the representatives from the Department of Veterans Affairs for appearing here today.

The timeliness and quality of processing the claims of our veterans are declining. Budget restraints are a reality that faces every area of Government operations. The cuts in funding for veterans programs have been cutting deeper and deeper into the flesh of the Veterans Administration. Veterans have endured the cuts with character and resolve. The cuts have finally reached the bone. We cannot continue to make cuts without cutting through the bone and amputating vital parts of the Veterans Administration.

We have made a covenant with our veterans that we must stand behind. In order to provide adequate and prompt service to veterans in the face of the budget conditions, we must seek ways to increase efficiency in our operations.

As a small businessman, I am well aware of the necessity of efficiency in operating within a tight budget. I intend to work with veterans and the other members of this committee to find ways to improve our operation in order to better serve our Nation's veterans.

Thank you, Mr. Chairman.

Mr. APPLEGATE. Thank you, Mr. Parker.

Also with us this morning on the committee is Mr. Penny, Mr. Evans, and Mr. Sangmeister.

Our first witness this morning will be the distinguished Chief Benefits Director, John Vogel. We certainly want to compliment you, John, for your adherence to my request for early submission of the testimony; we appreciate that very much. All of the testimony we received was laid out on the table. If it all went before any of you were able to get your hands on a copy of it, you can just borrow somebody's copy.

John, you may proceed whenever you are ready.

STATEMENT OF R. J. VOGEL, CHIEF BENEFITS DIRECTOR, DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY GRADY HORTON, DEPUTY CHIEF BENEFITS DIRECTOR, PROGRAM MANAGEMENT; RAY AVENT, DEPUTY CHIEF BENEFITS DIRECTOR, FIELD OPERATIONS; AND GARY HICKMAN, DIRECTOR, COMPENSATION AND PENSION SERVICE

Mr. VOGEL. Thank you, Mr. Chairman.

I am pleased to be here with you today to discuss the adjudication of compensation and pension claims in our regional offices and associated issues raised in your letter of invitation to Secretary Derwinski.

I would like to begin with the subject of the timeliness and quality of our claims processing activities. In the continuation of a trend, the amount of time it takes our regional offices to process claims is increasing. It is partly because our programs, laws, and regulations have grown more complex. The burden placed on claims examiners is heavier than staffing and workload indicators would suggest.

We have initiatives underway that should help us to improve our timeliness and quality. A comprehensive list is attached for the record. At this time I would like to discuss just a few.

We are about to begin testing an automated exchange of data between the St. Petersburg regional office and the five medical centers in Medical District 12. This computerized exchange will allow us to focus on cases which require adjustment or review.

By eliminating unnecessary reviews we save processing time. We also have a project underway to use a special word processing program to produce and release some letters from within adjudication. That will eliminate some of the delays attendant in a centralized typing pool.

We are rewriting the manual that contains the instructions for processing compensation and pension claims. That manual has been updated over the years to reflect procedural changes, but this manual revision will also reflect organizational and workflow changes. The rewritten version will also include a subject index and appropriate references to the controlling regulations.

Mr. Chairman, as you know, statistical quality control is a systematic approach to determining whether quality is acceptable and to determine when action is necessary. Our SQC methodology was not designed to provide a national error rate and has been the source of some confusion.

In response to those concerns, we are developing procedures which will provide separate nationwide claims processing error rates for the compensation and pension programs, which we expect to implement by October 1 of this year. The new system will augment rather than replace the current system.

Another initiative in the quality area is improved training of adjudication personnel. In the past regional offices have trained their own personnel. That system was fine when we had sufficient manpower for the training and our programs were relatively more straightforward than they are today.

Over the last few years, however, the resources necessary to provide top-notch training in the regional offices have been subject to budgetary pressures and growing backlogs.

In response to that, we are establishing a centralized training academy, which will provide 6 weeks of basic adjudicative training to all new claims examiners. We expect to start that by mid-fiscal year 1990.

In your letter, Mr. Chairman, you asked us to address the issue of consolidation.

Recently, when the adjudication officer's position in Cheyenne became vacant, we placed the Cheyenne adjudication division under the supervisory control of the adjudication officer in Denver. We refer to that arrangement as a remote functional consolidation.

You have invited the adjudication officer from Denver to testify today. She has done a truly excellent job, and I think you will find her description is interesting. We continue to monitor the Denver-Cheyenne operation closely. Overall, we are pleased with the success of that venture.

As comparable situations arise, we will consider similar action, but we don't have plans now to consolidate or close any divisions or relocate personnel. Future workload shifts could alter that position.

I promise you, however, Mr. Chairman, that claimants will continue to have access to necessary services and that any move would in no way adversely affect the quality and timeliness of claims processing.

Turning to another topic, Mr. Chairman, I would like to discuss our hearing officer program.

In 1988, in response to demands placed on us by a settlement of the *Semenchuk* v. *Walters* lawsuit, we created the position of hearing officer.

We have appointed 40 carefully selected individuals to fill the new positions. They conduct all post-decisional personal hearings on compensation and pension issues, review the evidence that arises from such a hearing and make the decision as to whether benefits can be granted.

Fears have been expressed that the program was a preliminary step toward abandoning the policy of requiring two or more signatories on crucial eligibility decisions. We have not nor do we intend to change that fundamental policy.

A hearing officer becomes involved in a claim only after a three-person rating board or a two-person authorization team has made an initial decision on a claim. Then the claimant is advised of all due process rights. One of those rights is a personal hearing before a fresh decisionmaker. The hearing officer is the fresh decisionmaker.

The hearing officer has the same authority and the same limitations that apply to our previous three-person hearing panels, except that the hearing officer is authorized to prepare a single signature decision following the hearing. They can, if new and material evidence is presented, change the decision. There are safeguards in place that will assure that that power is not abused in any way.

One of the strongest checks to the hearing officer program is the oversight provided by service organization representatives. We have done about 8,000 hearings in 6 months, and the feedback from the national veterans service organizations and our claimants has been very positive.

On a different subject, the GAO recommended we do a comprehensive review of the rating schedule. We agreed to do that, essentially to update the medical criteria contained in the rating schedule. We will do one body system at a time, working in concert with the Veterans Health Services and Research Administration. We selected the genitourinary system as the first to be reviewed, and the others will follow on a systematic basis.

Because the rating schedule is a fundamental decision document affecting veterans benefits, it is our intention to proceed in a manner which would encourage full public participation in this process. We will solicit comments from the public through the *Federal Register,* and all comments will be carefully considered.

I would like to talk for a moment about two other GAO items.

First is a report, still in draft form, that has been mentioned in the *Washington Post.* It was a review made at the request of Senator Cranston and Congressman Edwards in response to review allegations of widespread problems in our claims processing procedures that caused veterans to be deprived of their due process rights.

The General Accounting Office has found no evidence that VA was denying veterans due process or discouraging them from hearings, nor did the GAO find any evidence that VA adjudication personnel were doing what was called claims churning; that is, taking credit for work not performed.

The GAO did find some problems with the contents of our computer-generated decision letters, with the development in some percentage of cases and with processing irregularities. We are aware of those problems. We had already independently initiated action in those areas before the GAO made its report.

The other GAO item concerns an evaluation of the reliability of the measurements of the claims processing system. In their draft report GAO said that our SQC system does not provide sufficiently reliable estimates of the extent of errors in the processing of claims, nor does it break out error rates by type of sub-program.

Again, they did not report any problems with which we were not aware and weren't already working to correct.

Mr. Chairman, that concludes my statement. I and my staff would be pleased to answer any questions you or the members of the subcommittee may have.

[The prepared statement of Mr. Vogel appears on p. 53.]

Mr. APPLEGATE. Thank you very much, John.

You didn't, I notice, blame the decline in processing on the lack of staffing.

Do you think that was obvious by the fact that you didn't say that inadequate staffing is not a factor?

Mr. VOGEL. Mr. Chairman, I think that staffing is a factor. We have been working, however, in an environment of continually decreasing staff and are endeavoring to provide all the tools other than staffing for the solution of the problem, including automated data exchanges, streamlined processes, and various other innovations.

There is no question that staffing would go a long way toward alleviating the problem. Living in the world of reality, however, and not seeing any changes in the future, we are redoubling our efforts to provide tools to a rather overburdened workforce in the field to get the claims adjudication processes done in a timely and quality manner.

Mr. APPLEGATE. Since you indicated that veterans benefits programs and the laws and regulations governing them have grown more complex, have end-product values been revised to reflect the increasing complexities of this?

Mr. VOGEL. They have, Mr. Chairman. We recently had a study done by our staff in concert with a management consulting firm. It takes about 5 to 6 percent more resources to adjudicate a typical compensation or pension claim and about 10 percent more to adjudicate the educational claims.

That is mostly caused by the fact that there are so many subprograms within those. It is not as straightforward as it used to be. We have revised the work measurement system appropriately, and it has been in place now for a short period of time.

Mr. APPLEGATE. Yes. Will this be used for your 1991 budget request?

Mr. VOGEL. Yes, it will, Mr. Chairman.

Mr. APPLEGATE. Let me ask you this. As timeliness of processing has deteriorated, you have gradually lowered your standards of acceptability. Do you intend to further reduce your standards or can we expect to see some improvement this year?

Mr. VOGEL. We have no plans to change the standards further. We changed those largely as a result of input both from the field and the Central Office personnel that they were frankly unrealistic. We still have measurements in place by which we can compare performance this year against last, against the year before that.

We know where we are going in total with respect to the various programs that we administer. We do in fact have a somewhat lower expectation in the amount of claims produced in certain periods of time.

I don't want at all to have an unrealistic standard in place which might compromise the quality of the work that we perform.

Mr. APPLEGATE. John, do you think the file clerks and development clerks on the local level are getting the short shrift as far as development is concerned in light of the fact that we are establishing a centralized training academy for adjudication personnel? Are you forgetting about the local people because of this?

Mr. VOGEL. No. We are not at all, Mr. Chairman. The file clerks, correspondence clerks, and development clerks are a very important segment of the claims processing. They perform duties, the training for which can be performed in regional offices in a rather efficient way.

We are going to begin with the training of claims examiners, which is the core working group in our adjudication divisions. We will also be providing training to rating specialists and to line level management. Very likely a spinoff from that will be training of other personnel as well.

We have not yet completed the formulation process for the 1991 budget, but I expect that the Director of the Compensation and Pension Service will identify an opportunity for training other personnel as well and will ask for that in the 1991 budget.

Mr. APPLEGATE. Well, I just will have, I think, one more question here, and that is with regard to the hearing officer position. We have no problem with the concept that one person can conduct a hearing. However, we do feel that there should be two signatories on a rating.

I understand you don't require the hearing officer to get more than two signatures to effectuate the rating change. Why do you give him more authority in this regard than you give the adjudication officer?

Mr. VOGEL. Any rating decision is signed by three personnel. The hearing officer, in order to have authority commensurate with the responsibility we place on him, has to have the ability to change a decision. Otherwise, the utilization of that person in post-decisional hearings would be a hollow one. It would be without any teeth.

There are provisions for reviews. The hearing officer reports to the adjudication officer at the regional office to which he or she is assigned, and we believe that that, plus the capacity for Central Office review of the decision, gives us sufficient reason to believe we are going to get a sound decision, that it will be reviewable, and that we have the safeguards built into the system.

Mr. APPLEGATE. Okay. Thank you, John.

Mr. McEwen.

Mr. McEwen. Thank you, Mr. Chairman.

John, you mentioned the strategic planning guidance for fiscal 1990 in your testimony last year. How is that program coming?

Mr. Vogel. It is working very well. I think we have identified our opportunities. We have identified the resources needed to accomplish them. In that process we built in sufficient input for the various elements in the Veterans Benefits Administration, both the program management people, the people who administer the programs, as well as the field working in concert in large measure with the ADP management group.

The process has been working well. We have identified our opportunities, and we have funded a plan for them. We are seeing the results. We did this last year. We have improved upon it this year. We are ready to roll now in the call for the 1991 budget.

Mr. McEwen. How would you assess the morale of the people handling these claims?

Mr. Vogel. The general assessment is it is healthy. I don't think there is any question that they are being taxed but a lot of our personnel have been raised in this environment. They have been with the Department for more than 6 or 8 years. They are accustomed to looking about them in the adjudication division or wherever else they are working and seeing about the same level of work, with one or two or three less personnel working with them to get it done.

I think it is a tribute to them. They are motivated by a feeling that service to the veteran is important. It keeps the morale at a healthy level. I do think that from time to time one couldn't describe them as always enthused about it, because it becomes burdensome.

Mr. McEwen. Doesn't it concern you that we have had an increasing crunch in recent years, a tremendous demand on the services of the VA?

More veterans are in need and the VA is just overwhelmed. I am concerned that we are going backwards rather than forward, and I understand budget constraints and all the rest. But I would think there should be some new technologies and computerization available to give the VA a better way to handle cases more rapidly.

I think we spend so much time chasing the files. Every time you call they have just gone someplace. It's as if they went out and hopped on a bus or they have gone to another office and you need to call them back this afternoon orcheck into where it went. There just seems to me so much mechanical improvement that could be made whereby the people that are under this stress could increase their performance and the veterans really feel that they were better served as well.

Mr. Vogel. I agree with that assessment, Mr. McEwen. We have expanded the amount of information available to a veterans benefits counselor or an adjudicator in what we call the TARGET system, which is our computer system. The data is there to help resolve our claims, data that wasn't there before. We prototyped and tried out the bar coding to control or to assess where folders are within the claims processing movement.

Mr. McEwen. What percentage of files are included in that?

Mr. **Vogel**. We did the tests in Cleveland and Roanoke. The technology that is in Roanoke appears to be the best or the most efficient technology. We know how to do it now. Now we need a comparatively modest sum of money to purchase the bar coding and the wands, the same thing that you see in the supermarkets.

Mr. **McEwen**. Is that in the 1991 budget request?

Mr. **Vogel**. Yes, it is.

Mr. **McEwen**. It is? Good.

All of us understand the pressure you are under. Members of Congress sometimes like to sit behind a panel and pontificate and yell and make the cameras roll and say, boy, we told them, but nothing happens.

This committee really doesn't operate that way very much. Yet people, veterans, for whom we have a deep concern, approach us on a regular basis to complain. The only person we have to share that with is with you. We understand the constraints that you are under, but in that shock absorber relationship that the members of this committee have with the VA let us not be too soft. Something has to be done. We should not be going backwards. In my mind there is no justification for it taking a third longer to process a claim than it did 12 years ago. I have difficulty understanding that.

Let me just conclude. The testimony we are about to receive from the American Legion, the VFW, and the DAV, have complimentary statements to make about hearing officer improvement, but the ex-POWs feel that there is an insensitivity on the part of hearing officers as well as the entire veterans claims branch.

Have you addressed that at all? Are you aware of that?

Mr. **Vogel**. I have heard no criticism of insensitivity on the part of hearing officers. I am hearing nothing but positive things about them.

It remains for us somewhat of a challenge to keep the rating specialists, the adjudication personnel attuned to an understanding of the needs of a former prisoner of war. These claims are to be adjudicated with compassion and understanding, but evidence, hard evidence, is simply not there in many cases due to the nature of the documentation of injuries and illnesses they contracted while in or subsequent to their captivity by our enemies.

We have established the POW coordinators in the regional offices. We have worked carefully with the Former Prisoner of War Advisory Committee of the Secretary when from time to time issues arise affecting the American ex-prisoners of war and others. Frankly, if they think we haven't done something correctly I am always pleased to look into those cases personally, as is my staff.

The recent legislation, which provided for a couple of additional conditions as presumptive to the prisoner of war experience, has gone some way in at least taking out, or attempting to take out, of the judgmental process a few chronic ailments that might be related to the experience they had during their captivity.

Mr. **McEwen**. Thank you.

Mr. **Applegate**. Thank you, Mr. McEwen.

Mr. Parker.

Mr. **Parker**. Thank you, Mr. Chairman.

Mr. Vogel, you have been at this a long time, and I could very easily rant and rave about the problems we have in the VA. I could make a lot of political points, I think, in screaming and yelling, but I don't want to do that. There are some basic management questions that I have that I would like to see VA address.

When you have plenty of money, you don't see mismanagement very easily. It is just there, but you don't really pay attention to it because you have got plenty of money to take care of the problems that come up. All of a sudden, whenever money becomes tight, that is when you start to see problems start cropping up, and then you start looking for ways to solve those problems.

We are long overdue in solving a lot of problems, the management problems that are in the VA. What I have are some basic management questions.

Why has it taken so long—and you used the word in your testimony "testing"—why has it taken so long to get to the point where we are testing automated exchange of data within VA? Why has it taken so long? Small business in this country has been doing it for years.

Mr. Vogel. One of the reasons it takes a while is that, frankly, the agency purchased and developed systems, computer systems incompatible one to the next. Medical care programs went under something called DHCP. The software in that program is not amenable to direct translation over to the programs that we run in the TARGET system, which are Honeywell systems. We have a breakthrough now called the Automated Medical Information Exchange. We like acronyms in Government, AMIE. We tested it in Atlanta. We did it in Columbia. We plan to export it to St. Petersburg. We do in fact get extracts of medical data from the VA medical centers and we're able to run that in our computer systems and make the necessary adjustments. That breakthrough recently occurred.

To pick up on your earlier comment, it is easy to throw money and people at problems when you have got plenty of both. That is clearly true. We are now dealing, however, in an environment in which some veterans are making claims for compensation based on service in the military 45 years ago. Accessing the records, determining the continuity of the condition is a little more laborious, very frankly. We administer about 10 or 12 education programs, not all of which are the same as the others. So we are administering all these programs.

It is interesting, I think, to note that the GI Bill program, the post-Vietnam era GI Bill, had millions of trainees. At that point in time, we had few education programs. We now have a lot more. All the rules aren't the same. We picked up all those programs, including the veterans job training program, and we administered them for a number of years with no additional resources.

Mr. Parker. Can we identify the individual or group of individuals who turned around and made these critical decisions as far as computers not being compatible?

I mean, to me that is the most asinine decision that was ever made. I mean, I keep seeing it, not only in the Veterans Administration, I see it in a lot of different areas of Government. To me, it doesn't take a genius to figure that out.

Mr. Horton. Mr. Parker, if I might respond to that?

Mr. Parker. I would love to hear something.

Mr. HORTON. I don't think you would find, if you spent a lifetime, one individual to pin something like that on. In fact, I don't think there is any one or any group of individuals responsible.

What we have essentially in our data processing system was the wave of the time, if you will. It was a great big computer that was located in one place and was going to do all the whiz-banging that was supposed to be done. That was the philosophy the computers were designed for when they were put in place.

Well, as time went by, we made changes in our system. We were required to make changes in the veterans payment system because we got new programs legislated into the system, et cetera. It is very difficult to design and implement in our large TARGET system an interface with a data processing system in the hospital. In fact, over part of this period of time the hospital system didn't have anything for us to interact with. We were ahead of them.

Mr. PARKER. But when they did get something, they did get something that would interact with you?

Mr. HORTON. When they did get something, they got something which is termed a "distributed system." At this point, a sort of a serendipity has taken place. We in VBA have enough Wang equipment and PC equipment in our regional offices that are not dependent on the big overall TARGET system that we can now plug in locally with the hospitals.

This computer compatibility/incompatibility thing has happened through evolution rather than a series of discrete decisions that were made along the way.

Mr. PARKER. Let me just make one point. Then I will quit.

We have a Veterans Administration. We have a Secretary of Veterans Affairs, okay. It is a situation where we have someone that is answerable. We are not going to be able to find that individual or group of individuals who made these stupid errors in the past, made these ridiculous decisions, and even if we found them there is nothing we can do to them, even though something should be done to them.

What we have is an inept system that isn't working. It is going to get worse. It is not going to get better. A system that is set up and is not working well and that is not set up properly, I don't care how much work you put into that system it is going to get worse. Everything is going to exacerbate. Every problem that comes along will exacerbate another problem. The basic system itself needs to be revised.

What I would like to see, I would like to see some way that you would bring in some management people not to make decisions as far as who gets what and as far as taking care of claims, but as far as setting up a basic system, and I know that sounds ridiculous to say this at this point in time, but the system itself has got to be changed. So that 100 days or 150 days, it is too long. There has to be a point where you can put it together, and you can do that with a management system, and hard decisions have to be made, and the bureaucracy has gone crazy and we don't have the money to take care of it.

Something needs to be done to take care of that, and I am not screaming and yelling at you. I want you to know that because it is a basic problem which you did not create. You are just dealing with the results. But that is what I am interested in.

Mr. **Vogel**. I would like to comment on that.

We did what you suggest 2 years ago. We have a program in place that is called modernization. It has got milestones in it. It has got a progress path, getting things done. The system, I promise you, will not get worse. The system will get better.

About 2½ years ago, we transferred the personnel working on our ADP systems to VBA. There is an oversight body within the agency, within the Department of Veterans Affairs, which assures that whatever development is done it is compatible from one system to the next. We are there.

I will be pleased to provide you, if you would like, a summary at least of where we are on the modernization path. We are not going to get worse. It will get better.

Mr. **Parker**. I would like to see that.

Mr. **Vogel**. I will be happy to provide it to you.

Mr. **Parker**. Thank you very much.

(See p. 62.)

Mr. **Parker**. Thank you, Mr. Chairman.

Mr. **Applegate**. Mr. Bilirakis.

Mr. **Bilirakis**. Thank you, Mr. Chairman.

Mr. Chairman, I have a very brief opening statement I will ask unanimous consent be placed in the record.

[The prepared statement of Congressman Bilirakis appears on p. 60.]

Mr. **Bilirakis**. Good morning, John and gentlemen. Welcome to this committee. It is always great to see you.

I guess I have a remark/question regarding the St. Petersburg regional office that you referred to previously in your statement.

We know of the growing veterans population in the State of Florida. We know there has been a tremendous increase in the number of claims filed in the St. Petersburg regional office; whereas, other regional offices, as I understand it, are experiencing a decline, St. Petersburg is experiencing an increase, with the exception of education claims, and maybe that should be the subject of another hearing and another discussion.

I am just curious about that. I am not going to go into it now.

We know that currently the St. Petersburg regional office is responsible for 1.5 million of Florida's veterans, that that office handles 40 percent more than any of the other 58 regional offices nationwide. That figure represents 6 percent of the number of claims processed by the entire Veterans Benefits Administration.

So I understand this office handles more claims than any other office in the Nation now, yet we also know—at least this is information that was faxed up by St. Petersburg this morning at my request. I talked to them about this yesterday—that the time of handling those cases is less than the national average.

I have it here by category. I am not sure that I understand what all these categories mean, but Category 050, for instance, 415 cases so far this year, all 415 handled in the first 30 days. Another category, Category 120, total cases 937, the average days to complete were 68 and 88 here. Category 130, total cases 600, average number of days 18 and 22. And it is sort of similar stories all the way along the line here. Category 110 showed an average days to complete of 111, which is approximately the national average, whatever that category might be. Let me ask you this: Have there been any recent increases in personnel at St. Petersburg?

Mr. Vogel. St. Petersburg is probably running—they haven't had a personnel decline like other regional offices have. This is in response to the known demographic shifts.

Phoenix, Arizona is another regional office with a similar phenomenon going on. There is "in" migration and not "out" migration.

Mr. Bilirakis. The FTE has remained constant?

Mr. Vogel. About the same, and perhaps up a little bit over time. The challenge is to provide a full service regional office in States with a small population base and "out" migration. A lot of claimants wind up in Florida in retirement. Keeping the small offices open consumes a certain amount of resources. We haven't been able to and don't really want to close them down. We are going to provide the basic level of service.

St. Petersburg has kind of held on with the staff it has had over time, and it is a tribute to that regional office they do as well as they do in handling claims.

I would like to suggest, Mr. Bilirakis, that is probably pretty much a good news statement that you gave. A "110", for example, is an original claim for compensation benefits. To be able to adjudicate those within a standard better than the national average is pretty good because you are so dependent upon the military to provide service medical records and hospital reports and that sort of thing. It is difficult. So St. Petersburg is rising to the challenge.

Mr. Bilirakis. Thank you for those kind words on behalf of those people down there. I know we all say thanks, and on behalf of you and all the veterans we say thanks to them.

I can't help but wonder, with this tremendous workload that they have in all of these cases, better than 20,000 so far this year if we are able to interpret this correctly—I know everything is relative, but I would imagine that is pretty darn high—how is it they are able to do it there and we are having problems in other areas.

That is the question that I have, and I don't know that there is any specific answer, but they must be doing an awful lot of things right. I realize, based on what you said, something about their personnel, their FTE has been relatively constant, that you have maybe some stability there which lends itself, I would imagine, to pretty good efficiencies.

But are we looking—and I hate to put any of our regional officers in a better category versus a worse category, but are we looking at some of these offices which seem to have those kind of results to take a look and see what they are doing and maybe relate that to the others?

Mr. Vogel. We are, Mr. Bilirakis. We know within a range the numbers and types of personnel we need to process claims so that you don't have breakdowns. You need people to get the folder from the file area and develop your evidence and send out correspondence. Ultimately, they give it to an adjudicator. This is how a claim is handled.

We also know that at a certain size, a small size, that processing chain tends to break down. You may have very fine personnel, but one or two or three of them not working for us on a given day causes it to break down. St. Petersburg and other offices of similar size have the luxury of having enough resources to shift them and cover when people are out. We don't find that in some of our very small regional offices.

Mr. Avent, to my far right, is the person in charge of all the field operations for the Veterans Benefits Administration, and he tells me it takes about 12 percent more personnel to keep some of these very small offices up and running. So there is a price we pay there, where we could maybe get some of those resources into the areas that are impacted by a bigger workload—St. Petersburg, Southern California, Arizona, even the Carolinas and Georgia.

Mr. BILIRAKIS. Are we finding then that some of the bad figures, if you will, in terms of slow processing, for the most part that those emanate from these smaller offices?

Mr. VOGEL. You might have slow processes in some, but you also have—in order to keep the processing time up—a little additional personnel beyond that which is normally required. We measure per employee output to keep offices staffed. If a very small office with a half a dozen adjudication personnel has one or two out, they really do have difficulties.

Mr. HORTON. We do have a Central Office monitoring system and we do look into the different offices. We get reports from all of them, and we also have survey teams that go out every 18 months. They do the circuit through all of the regional offices. There are differences within offices that are attributable to various circumstances, and we do monitor those. We do generally know what is right with an office and what is wrong with an office and how to correct this.

Mr. BILIRAKIS. I have a curiosity, Mr. Chairman—I am not sure anyone has brought that up yet—of judicial review. It is awfully early, but have we been able to analyze at all its impact, if you will, on claims processing, or is it too early to tell?

Mr. VOGEL. Mr. Bilirakis, we don't plan to ask for any additional personnel simply because we now have a situation where the decisions we make at our regional offices ultimately can wind up in judicial review at the Court of Veterans Appeals and beyond. We believe that the decisionmaking is sound. We don't see a reason to add any staffing.

Mr. BILIRAKIS. Have you seen a difference, though, John, in the makeup of the claims as they come in as a result of maybe this change, you know, setting a decent enough predicate initially that it can be built upon later on if it has to go that particular route, the judicial review route?

You haven't seen much of a difference in the makeup of the claims? In other words, more attorneys involved or anything of that nature?

Mr. VOGEL. Not that we can determine. Mr. Hickman might have something to add.

Mr. HICKMAN. I really don't. Remember judicial review applies only to decisions on which Notices of Disagreement were filed on or after November 18th. There has been no trend as of this time.

Mr. Bilirakis. Thank you, Mr. Chairman.

Mr. Applegate. Thank you, Mr. Bilirakis.

I don't believe, at least to my knowledge, that we have any kind of information or statistics to show that there has been any effect because of judicial review.

Mr. Bilirakis. Not that I would expect any, but I was curious to know if he had seen any.

Mr. Applegate. Mr. Evans.

Mr. Evans. Thank you, Mr. Chairman.

Mr. Chairman, I would like to ask your consent to submit additional written questions. I am going to leave in a few minutes to go to an Armed Services Committee hearing and would like to have that opportunity.

Mr. Applegate. Without objection.

Mr. Evans. Mr. Vogel, since the U.S. District Court in San Francisco yesterday handed down its decision which voided 31,000 VA decisions concerning Agent Orange, given that fact are you going to develop a specific timetable to handle these claims?

Mr. Vogel. Mr. Evans, I haven't even seen the decision of the Court yet. I guess it is coming in today. I don't really know what it means except that which I read in this morning's Post. I don't take guidance from that sort of thing.

Mr. Evans. Assuming it means that some 31,000 cases are being handed back to you basically for reconsideration, as I understand it probably will, wouldn't this have a great impact on your current system because many of these cases were filed for many years? The timeliness of those claims I think would have some impact, but also the justice delayed, justice denied kind of concept is important here, to move on these specific kinds of cases, isn't it?

Mr. Vogel. It is, indeed. If we have to undertake a review of those, that plus the review of radiation-related cases previously adjudicated, now subject to a number of presumptions due to a law passed last year, the answer to your question is, yes, we are going to be taxed to do that.

Mr. Evans. Could you maybe review that decision and write back to us, since I know you haven't had the benefit of actually seeing that, whether you will advise us of a specific plan, what that may be premised on, and so forth?

Mr. Vogel. I would be pleased to do that, Mr. Evans.

(Subsequently, the Department of Veterans Affairs submitted the following information:)

To implement the decision, VA must first promulgate a regulatory definition of the term "significant statistical association" which will be the new standard for review of the scientific studies on the effects of exposure to herbicides containing dioxin. The standard is being developed in consultation with the Veterans Advisory Committee on Environmental Hazards. It is anticipated that a final regulatory definition will be published in October of this year. Once the new standard is in place, the Advisory Committee on Environmental Hazards will review the scientific literature. If the Committee recommends, and the Secretary approves, that under the new standard one or more disabilities are significantly statistically associated with exposure to a herbicide containing dioxin, VA's adjudication rules will be amended to provide guidance for service-connection. At that point, VA will review the previously denied claims of individual veterans with a view toward granting compensation benefits.

Mr. Evans. You mentioned the complexity of your current review process procedures in your statement.

Are you confident now that your entire compensation and pension staff use due process as an important protection for our veterans?

Mr. VOGEL. Yes, I am.

Mr. EVANS. Have you received approval for adequate funding for the National Training Academy for adjudicators?

Mr. VOGEL. We have.

Mr. EVANS. How much is that?

Mr. HICKMAN. It is going to be—with the 1990 budget we are talking approximately $800,000.

Mr. EVANS. Is that a sufficient amount of money?

Mr. HICKMAN. For 1990 it is sufficient.

Mr. EVANS. You also emphasize the potential advantage of your computerized data exchange project between the regional offices and the medical facilities.

Does this project depend on the purchase of additional computer equipment or simply enhancements of the existing TARGET system?

Mr. VOGEL. It will involve the purchase of a system that would allow the interchange to be effected. We can't entirely build that from the system we have in place, although we have got certainly—I am not a computer expert, by any means. There is some piece of equipment that needs to be purchased to effect the interchange at each regional office. Comparatively modest, but when you add it up over 58 regional offices it becomes a sum which will be a challenge to either take out of existing operating funds or make some specific requests for it in the budgetary process.

Mr. EVANS. I understand that there can be some limitations on this kind of exchange project, including an estimated failure in about 20 percent of the cases to properly track the issues of a case.

Can you describe what you do to eliminate those kinds of problems?

Mr. HICKMAN. If I may, we will be testing—it was developed in Atlanta and Columbia. We will be testing it in St. Petersburg beginning next month. We will set a baseline as to what happened prior to the test, and we will be monitoring against that during the testing phase to get a handle on whether there is any discrepancy or not.

Mr. EVANS. Thank you, Mr. Chairman.

Mr. APPLEGATE. Thank you, Mr. Evans.

Mr. Sangmeister.

Mr. SANGMEISTER. Just a couple of questions. I need to have a little background in order to get at the problem here, so some of the questions I am asking are pretty basic.

How many regional offices do you have?

Mr. VOGEL. We have 58 regional offices.

Mr. SANGMEISTER. At least one in every State?

Mr. VOGEL. One in every State. Large population States have more than one, and we have one in the Manila in the Philippines, the District of Columbia, and San Juan.

Mr. SANGMEISTER. In those regional offices, branches from those regional offices may be throughout the State, is that right?

Mr. VOGEL. The basic claims examination is performed in those 58 regional offices. Any personnel that we had off base from there are typically veterans benefits counselors, counseling psychologists, vocational rehabilitation specialists, who do hands-on type work to administer those programs, but the claims adjudication function is not out-based from the 58 regional offices.

Mr. **Sangmeister**. As often is done, I don't know if you have got that figure or not but if you take the amount of hearing officers that you have and divide it into the case workload, what do we come up with on an average?

Obviously, there are longer claims than others, certainly, but what is the average caseload for a hearing officer?

Mr. **Vogel**. Mr. Hickman might have that number. When we established the hearing officer program, we had 37. We now have 40 of them. We did that based on past hearing experience. We staffed in expectation that the number of cases the hearing officers can handle over a period of time will be at least as good as or better than that done when three persons did the hearings on appeal.

Mr. Hickman?

Mr. **Hickman**. What we are looking at on an average is 30 some cases worked per month by a hearing officer. We certainly schedule more hearings than that, but we have a lot of "no-shows." We have about a 60 percent "show" rate, so we have to anticipate people will come. We also have to work in the necessary prehearing work as opposed to the posthearing work. We are looking at 50 to 65 scheduled cases a month.

Mr. **Sangmeister**. Per month for each hearing officer. So it is more than one a day?

Mr. **Hickman**. Oh, yes.

Mr. **Sangmeister**. In that regard that Congressman Evans was talking about—and I saw on the media last night and I read the same newspaper article that you read this morning. I don't know if that newspaper article is accurate. We don't all believe the media. But it appears like there are some 200 claims now under Agent Orange have been returned. That is overwhelming, isn't it?

Mr. **Vogel**. I see a 30,000 figure in the paper. If we have to undertake a review, whatever that review will be, it may be important.

Mr. **Sangmeister**. Those are cases that have already been filed that apparently the VA has turned down. There is about another 200,000 out there that were not filed because they presumed they would not get any recovery due to the position the Administration had been taking. But if they all start coming, you have got your hands full.

Mr. **Vogel**. 200,000 is a figure that somebody came up with based on the special initiative. It is interesting that today in the adjudication divisions throughout the United States there are about 225,000 to 250,000 cases actively being worked on. There is a number of others pending followup action. We have a rather large system, and we can handle large numbers reasonably well. I don't know what the impact would be of any widespread review of cases as was suggested by the articles that I read.

Mr. **Sangmeister**. Nothing else.

Mr. **Applegate**. Thank you very much, Mr. Sangmeister.

John, just one more question. I guess counsel would like to know this, and perhaps all of us.

How many FTEE did you justify in your 1990 budget request for adjudication, and how many did you get?

Mr. VOGEL. 3,600. We have 3,600. I don't remember what the request was between request pass-backs and appeals.

Mr. HORTON. That is good.

Mr. APPLEGATE. That is what you asked for? Is that what you got?

Mr. VOGEL. Yes, sir.

Mr. APPLEGATE. Well, thank you very much once again for appearing before the committee.

Does anybody else have anything for the good of the order?

[No response.]

Mr. APPLEGATE. Thank you very much, John, and those who attended with you, thank you.

Mr. VOGEL. Thank you, Mr. Chairman.

Mr. APPLEGATE. The first panel we will have will consist of four adjudication officers—Mr. Barry Weisberg from the Cleveland office; Mr. John Bartruff, Winston-Salem; Ms. Kristine Moffitt, Denver; Mr. Dean Kurtz, from Montgomery.

Thank you very much for appearing before the committee. We are hoping to hear some very good testimony from all of you, helping us to try to find some resolution to the problem that apparently persists. Your statements, all statements become a matter of the record, and you can begin, Ms. Moffitt.

STATEMENT OF KRISTINE A. MOFFITT, ADJUDICATION OFFICER, DENVER DVA REGIONAL OFFICE

Ms. MOFFITT. My name is Kris Moffitt. I am the adjudication officer with the regional office in Denver. I have been with the Veterans Administration almost 20 years. My first 8 years were in the Chicago regional office, and the last 12 have been in Denver.

In June of 1988, I was asked to be one test station for the hearing officer concept. Denver acted as the hub with itinerant service to Wyoming, Montana, Utah, and Idaho.

Subsequently, in October of 1988, we were asked to take on a new challenge in Denver, and that was to provide remote site management to the Adjudication Division in Cheyenne, Wyoming.

Mr. Chairman, members of the subcommittee, I am prepared to answer any questions you may have.

Mr. APPLEGATE. Thank you very much, Ms. Moffitt.

Mr. Weisberg, we will go to you next.

STATEMENT OF BARRY M. WEISBERG, ADJUDICATION OFFICER, CLEVELAND DVA REGIONAL OFFICE

Mr. WEISBERG. I testified before this committee 2 years ago. I thank you all for inviting me back. It is always a pleasure to keep the Ohioans on the committee informed of what is going on in Cleveland. I do intend to give the microcosm view of things.

I think you know this, but the VA gets in trouble when we are rapidly expanding or when we are in a down trend of people. We are in the down trend now, and we need 2 or 3 years of level employment if you want to see some of the advantages or the gains that you are looking for because, you see, we start out the year; I get cut. When you start out the year above your average employment ceiling, it means you can't replace people as they leave and you eventually have to go below your new level. By the end of the year, you are really missing a lot of people, and, of course, it is the typists and the file clerks who go first.

At an office like Cleveland, we don't get too much turnover in the higher grades. There is a slightly different effect on the rest of the divisions because of cuts. That means when I lose a trained claims examiner I can't replace him. I don't have a steady flow of new trainees coming in to provide fresh energy, new outlooks. When you are dealing with Cleveland, where it is not the booming economic area like there is on the coasts, you just don't get the turnover.

So what is happening to the division?

Well, they are aging. The average age of the division keeps going up.

More leave is used because they are entitled to more leave as they all reach leave group 3. Also, they get sicker. You get older, things go wrong, and we have a larger percentage of people off in this particular area.

Accordingly, Cleveland was making the timeliness limits just fine last year, this year not so. We have a normal surge of work during the review of income. It starts in October, the EVR season we call it. Then you get hit with the school enrollments right on top of it. We normally spend $30,000 worth of overtime, starting in December through February or March. We haven't been able to do that this year.

This puts us behind the "8 ball" in terms of workload. We have the highest workload in the country on the Monday morning report, and large workloads build on themselves. They create trouble with finding cases because more cases are out. It is harder to look good doing your work because more evidence comes in when we should have finished it the first time.

This is all aggravated by the trend of working with less. Do I have enough people to do the work? Yes, but I sure wish I had $30,000 worth of overtime to knock out the problems. The problems are still there, and they are aggravating the situation. We just try to work a little better. That is about all we can do.

One last statement: Cleveland has never changed its emphasis on quality or timeliness. Now there is more emphasis on timeliness, as a matter of fact, in terms of the consumer interest, the veteran who has been waiting the longest. For many years we worked cases on a "first-in/first-out" basis as to when cases were pulled, and if you are relatively current, that works well enough. But if you are backlogged, the first case pulled has been waiting a month for an answer. The next case gets pulled, he has been waiting 6 months for an answer. Is that fair?

When you are cut to the bone, if anybody is off we have troubles. We decided that we would start working cases no matter when they were pulled. This means that when the evidence comes in we sort the cases by how long the claim has been pending and try to work those first. It doesn't really change your average processing time, but it certainly is helping the claimant who has been waiting the longest for a decision on that case.

My rating boards pretty much get cases done within 90 days. Very few come in over 120, and those are worked immediately.

I would be happy to answer any questions you gentlemen may have.

Mr. **Applegate**. Thank you, Mr. Weisberg.

Mr. Kurtz.

STATEMENT OF DEAN KURTZ, ADJUDICATION OFFICER, MONTGOMERY DVA REGIONAL OFFICE

Mr. **Kurtz**. My name is Dean Kurtz, the adjudication officer at the Montgomery, Alabama regional office. I will give you a little bit of my background so you will know what my experience has been.

I have worked with the VA in excess of 15 years at four different regional offices. I began my employment in the Chicago regional office. I worked at our Sioux Falls and Washington, D.C. regional offices. For the last 2 years, I have been the adjudication officer in Montgomery.

Somewhere in the middle there, between the Washington regional office and the Montgomery office, I worked at VA Central Office, where I was Chief of Quality Review and Chief of Advisory Review for the C&P Service.

I have with me, in preparation for this testimony, some observations and comments and statistics that are applicable to the Montgomery office, and I will be very happy to share them with you at your request.

Thank you.

Mr. **Applegate**. Thank you very much. As a matter of fact, we would like for you to share that information with us. I am sure it will prove to be very beneficial.

(Subsequently, the following information was submitted:)

TIMELINESS STATISTICS FOR MONTGOMERY, AL

Time required to obtain	December 1984	December 1988
A. Requests for Service Records:		
Percent requiring over 90 days	11	22
Army cases only (percent)	12	26
B. Requests for Examination:		
Time required for completion (days)	77	79
C. Request for Hospital Summaries:		
Time required for receipt (days)	25	262

NOTE: Time required for completion reached a low point of 50 days in mid 1987 and has steadily deteriorated.

NOTE: The hospital standard is 10 days. Thus, it is taking 2½ times as long to receive requested summaries than it should.

INDIVIDUAL ACTIONS

Time required to complete	Fiscal Year 1987	Fiscal Year 1989	Comparison
Original Compensation	135 days	155 days	up 15%
Reopened Claims	80 days	95 days	up 19%
Review of SC Claims	63 days	76 days	up 21%
SC Hospitalized Review	50 days	73 days	up 46%

2. The following reflects the impact of the increased workload we have experienced in relation to the a decreasing number of employees.

Example: On October 1, 1986, Montgomery had 6,000 pending compensation and pension claims. Currently there are 8,400 pending claims for an increase in our pending workload of 39 percent in 2½ years. At the same time, we have experienced in excess of a 5 percent cut in employee ceiling. Our employees are working harder as shown by the fact that for the same period when our workforce has decreased, our completed work has gone up 4 percent.

3. But even with increased efforts, we have seen a worsening of out timeliness statistics in two critical compensation and pension areas, namely:

(A) Original compensation claims, where the average days for completion has increased 15 percent in the past two years (from 135 to 155 days)

(B) Reopened C&P claims, where time for completion has increased 19 percent in the past two year (from 80 to 95 days).

4. Our quality remains at acceptable levels, when measuring whether or not we paid the proper person the correct rate and from the correct date. However, if you consider timeliness of delivery as part of quality, then you must say the quality of our product has suffered.

Mr. APPLEGATE. Mr. Bartruff.

STATEMENT OF JOHN H. BARTRUFF, ADJUDICATION OFFICER, WINSTON-SALEM DVA REGIONAL OFFICE

Mr. BARTRUFF. I am John Bartruff.

In background, I started with the Veterans' Administration in 1966 in Denver. I became an adjudication officer in Cheyenne when it was a big station. There were 13 people in the Adjudication Division.

For 10 years I was adjudication officer in Columbia, South Carolina, and, for the last 6 years, in Winston-Salem, North Carolina.

I want to thank the committee for this invitation. This is kind of new for me, and I just hope I can contribute something to your questions.

Mr. APPLEGATE. We hope so, too. I just have a few general questions that I would like to throw out.

I think, Mr. Weisberg, you mentioned—this is the same feeling as the rest—you think that you have enough staff. So that doesn't seem to be a problem with you, but I was wondering about the rest of you, if staff is a problem.

Ms. MOFFITT. Mr. Chairman, I think that currently I have enough staff to get the job done. What I would like to see is an improvement, a streamlining of the processes. By that I mean I think an improved TARGET, additional terminals, et cetera, would help us in our word processing and data processing efforts in the division and streamline our benefit delivery.

One thing I over-looked that is also a streamlining of the processes is the National Training Academy. Out of 16 adjudicators in

Denver and Cheyenne, 9 are trainees. It has been a horrendous burden on the Denver regional office to provide training.

We take our training very seriously, and we approach it almost on a one-on-one basis so that trainees get the right outlook and the right approach to benefits delivery. I look to the National Training Academy to help us in removing the necessity of doing all of that training.

Mr. KURTZ. In continuation, it is my assessment that in Montgomery—I would agree with Mr. Weisberg and Kris Moffitt—that we currently have enough people to do the job, with one caveat. That is, barring any unforeseen addition to our workload.

I have heard numbers mentioned here this morning as a possibility for an increased workload due to an Agent Orange review. In addition to that, the Montgomery office this summer is participating in a State wage match program, which I understand by conversation with other offices where this went on is quite a labor-intensive project.

If we don't have any mass additions to our current influx of claims, I think that we have enough people to do the job.

Again, I agree with Barry, I would also like to see staffing stay level for about 2 or 3 years to give us a chance to catch our breath a little bit.

Mr. BARTRUFF. I am going to break it down some: rating specialists, I have all I need right now. They are doing a good job and they are current; claims examiners, one maybe two short; and development, that is where most of the work is right now. More death claims are coming in. AMIE, if it comes, is going to relieve a lot of burden on the development clerks for the paper exchange with the hospitals.

Additionally, file clerks—I don't know from day-to-day how many we have. We have ongoing recruitment for file clerks, but at this point, we can handle anything that comes in.

Mr. APPLEGATE. Well, I thank you all for that. It doesn't seem to be a staffing problem, but more or less a streamlining of the system.

Do you give a great deal of training to your employees? How much time do you devote to training?

Mr. Weisberg.

Mr. WEISBERG. Are we talking new employees here?

Mr. APPLEGATE. Any.

Mr. WEISBERG. We give about 4 or 5 percent of our total time in the claims examiner areas to training. The new employees, of course get formal training and on-the-job training. Basically, you teach them how to do something and let them do a hundred, then teach them how to do the next most difficult case and let them do a hundred, et cetera. I would say, for a new person, there is probably at least a month's worth of classroom time and training, and the rest is OJT.

It takes approximately 2 years to learn to be an adjudicator now. They come out of our class and they go to the unit where they are going to work. Their unit chief says, "They didn't learn anything. I have got to teach them all over again." This isn't true, but there is a lot of time spent on on the job training.

Ms. MOFFITT. In Denver 2 years ago we were spending about 9 percent of our resources for training. In that year we had three or four new trainees all at one time. As of this year we are committing about 7 percent of our resources to training.

Mr. APPLEGATE. Mr. Kurtz.

Mr. KURTZ. In Montgomery we devote, I believe, somewhere between 5 and 6 percent of our time to training. That is on an ongoing basis. Our rating boards receive 2 hours per week; adjudicators, 1 hour per week; and our clerks receive an hour of training per week. In addition to that, we spend time on our new trainees on almost a one-to-one basis.

Mr. BARTRUFF. We are pretty similar to Dean. We have on-the-job training, primarily. At the present time, we have two trainees, and training is done one-on-one. The rating boards are pretty well-trained, but they do have their on-going sessions. We also meet with the development clerks.

Mr. KURTZ. If I may, I left out what I consider an important category in training, and that is training for our supervisors. We make an ongoing attempt in our station to have a continual program of training for all supervisors, not just those in the Adjudication Division.

When formulating my training requests for each fiscal year, I do my best to ensure that each of my supervisors, particularly my new ones, get a minimum of 80 hours of supervisory training, with refresher training on an ongoing basis thereafter.

Mr. APPLEGATE. Thank you.

Mr. McEwen.

Mr. MCEWEN. This is an elementary question. Do you have supervisory authority over hearing officers?

Mr. KURTZ. Yes, sir, we do.

Mr. MCEWEN. That is what I thought. Yet you don't feel they are overworked at the moment?

Ms. MOFFITT. I wouldn't say I don't think they are overworked, sir. As I mentioned before, we were a test site for the hearing officer program. In getting it started, we relied on workload statistics as to the number of hearings scheduled prior to the hearing officer concept. What we have seen in Denver is an increase in the number of hearings since the hearing officer program began.

After 6 months, Central Office was able to evaluate exactly the workloads of each hearing officer and, in doing so, saw that the hearing officer in Denver was carrying about 3.7 percent of the national workload. He was holding six hearings a day in every station, including Denver, with a couple of days off every other week or so to catch up. That was just overworking him, I must say.

In the face of that, Central Office has taken away the stations in Utah, Montana, and Idaho and set up another hearing officer to work for those three stations. My hearing officer has now about 2.2 percent of the national workload, and he feels very comfortable that he will be able to handle that. He is now scheduling four hearings a day in Denver and Cheyenne.

Mr. MCEWEN. I just reviewed the figures. In 1978 there were 6,000 FTEs and today, as you just heard testified, a request for 3,600. So I am just having difficulty. There is a disconnect between reducing the number of employees and an expansion in the length of time that it takes to get decisions and the idea that everybody is doing fine. Just somewhere along there we are missing something, and I am just trying to find out what it is. I don't understand.

Mr. **Weisberg**. If I may answer, from my point of view, it is the cost effectiveness factor. Sure, we could do them quicker, but the funds just aren't available. The budget isn't there to do it. You wouldn't get back much more out of it.

What we need is some overtime, that is all, to handle the trouble spots. Every regional office has different problems at different times, and the real killer for me this year was not being able to spend overtime.

Mr. **McEwen**. As I said, the chairman just went through it, and everybody said they didn't need more.

Mr. **Weisberg**. I don't need more FTEE. I need some money for overtime with the people I have.

Mr. **McEwen**. Thank you, Mr. Chairman.

Mr. **Applegate**. Mr. Kurtz.

Mr. **Kurtz**. I was just going to comment. When I said we had enough people, that doesn't necessarily mean that we don't have any problems. What we are doing—and I think it is probably done in more than just our station, and as a matter of fact I am sure it is—was we have people doing jobs now that heretofore they have not been doing.

A case in point is that, because of the loss of my file clerks, I've had a substantial decrease in a very important area. All claims processing starts with the claimant's folder being pulled. I have to devote 1 day of the week to what we call file day, where my adjudicators stop adjudicating claims. Everybody goes to the file banks to drop file mail.

We are asking more of people. We are asking them to do different tasks, and quite frequently the tasks that we are asking them to do do not involve direct production of casework. They involve clerical tasks. By choice, because of staffing cuts, we have opted to keep our professional people and cut at the clerical level. This has a cost, and that cost is that clerical work has to be done by professional employees.

Mr. **Bartruff**. There are a lot of reasons for delays. In-house delays aren't always the problem. We spend anywhere from 90 to 100 days trying to get service records, sometimes much longer than that. In North Carolina there are a lot of retirees coming in and we get the original compensation claim.

Another problem is with the hospitals. Their staffing problems are like ours. You ask for an examination, they haven't got the consultants who can do it. They have to pass it back and wait for someone to show up. You don't always have the interest perhaps of the hospital director in getting things out to us. If the hospital director and the chief of staff don't worry much about it, we are not going to get an examination report. Their interest is in life and death. Ours is just bad backs. They just don't see the hurry-up in the information that we need.

So a lot of the delay isn't just a problem in the Adjudication Division. It is a Veterans Affairs problem and it belongs to others, too.

I don't say that we don't do some things wrong or we aren't missing some things, but it is also outside our jurisdiction.

Mr. **McEwen**. Does the regional supervisor have authority over that at all?

Mr. **Bartruff**. There is a regional medical director we can go to. There is a clinic in our building, and they handle most of our requests for examinations. When we go out for the hospital records or the hospital summaries, we are depending on the doctor to be there to sign the report or for it to be released by the office of the chief of staff. If they are too busy doing other things—their priorities are set for operation of the wards; they put us kind of down at the bottom. I think there is a review now to bring that around.

Mr. **McEwen**. Thank you.

Mr. **Applegate**. Mr. Parker.

Mr. **Parker**. Thank you, Mr. Chairman.

It is always interesting to see them put their careers on the line to come before a subcommittee to testify. I kind of enjoy that. [Laughter.]

Do you ever feel any political pressure in your job?

Mr. **Kurtz**. I wouldn't term it political pressure.

Mr. **Parker**. What would you term it?

Mr. **Kurtz**. Inquiries from Congressmen and Senators who have specific interests in individual cases.

I have worked for the VA for 15 years, and I have never had a Congressman or a Senator—if that is what you are terming as political—come to me and ask me to change a decision. They have questioned our decisions, as is appropriate, but they have all followed the appropriate channels in doing so.

Mr. **Parker**. At any time are your decisions based on the funds available?

Ms. **Moffitt**. No, sir.

Mr. **Parker**. Never?

Ms. **Moffitt**. Never.

Mr. **Parker**. Let me ask you about morale. When you talk about not having interns coming on, people being able to be trained, is it a problem of morale, not being able to get people in whenever you have got people that are easing on out? Is it morale?

Mr. **Weisberg**. It is not that. We can find people to hire. It is just that in Cleveland there is low turnover, so that we always just about make our next cut by the time we get the one after, and when I say we have adequate, we have adequate if everybody is there.

That is what I meant by "as you get the aging group of employees." When they are off on sick leave, it is hard on the rest to cover; when they are off on their annual leave, it is hard to cover for them. The supervisors have to really scramble around to try and provide coverage. That leads to a lack of timeliness when you can't provide that coverage.

Mr. **Parker**. So you are talking about attrition, basically?

Mr. **Weisberg**. Yes. If you are not in a high turnover area, you can't bring in people to replace the ones you are not losing.

Now, we used to be able to carry the slower people. Morale is down because people are being asked to do more than they can do. That is hard on morale, but we have to ask them to do it. There is no more fat anywhere. It is down to the bone. We can't carry anybody any more. They just have to do the work, and that causes anger and grievances.

Ms. **Moffitt**. There used to be periods of relief in the workload at different times during the year. Now the employees say there is never any relief. It is a fairly constant influx of work.

To parrot something that Mr. Weisberg said, I have a rating board of nine non-physician rating specialists. To ensure that the rating board workload isn't getting completely out of control, I can only let one of those specialists off at a time. As Mr. Weisberg has mentioned before, they are in leave group 3. They each have 5 or so weeks of leave to use each year. If you add that up, that doesn't leave too many weeks, and that is stressful to me. They have worked their way up through the organization, and they feel they are due some of the time they would like to have. Instead, they must very carefully plan—all nine rating specialists—that no two are off at the same time.

Mr. **Parker**. So you start getting the statement when people come back and they say it is not worth taking off and that is bad on morale?

Ms. **Moffitt**. Yes.

Mr. **Parker**. It is my contention, whatever people choose—give the reasons why they work anywhere—the amount of the pay is not at the top. That is just not a preference.

Mr. **Weisberg**. It is having their cases taken care of while they are gone that they appreciate the most.

Mr. **Parker**. And the sense of well-being and being able to accomplish their job, do their job well. That is where I see us having a problem because people are not feeling that everything is not coming out good.

Mr. **Weisberg**. People who used to be good enough aren't good enough any more. Sometimes it is because we need more, and sometimes they have just slowed down and there is no fat any more.

Mr. **Parker**. If there were something that you could change, what would you change? What would make the biggest difference?

Mr. **Weisberg**. In my morale you mean?

Mr. **Parker**. No, I mean overall. What would you change?

Mr. **Weisberg**. We need more money to buy equipment and/or more people to do the job.

Mr. **Parker**. What about the system itself, changes in the system as far as the organizational, hardware, computers, whatever? What would be something that would make a drastic change in how you are able to carry out your duties as far as providing service?

Mr. **Weisberg**. Right now we need better networking. As you said, we need those programs that can make the computers talk to each other. Luckily, the computer in our State has gotten that far now, where they can make very different machines talk to another.

Mr. **Parker**. On the local level?

Mr. **Weisberg**. Yes.

Mr. **Parker**. You have known you have needed it for a long time?

Mr. **Weisberg**. Yes.

Mr. **Parker**. The response from Washington—you haven't had good response?

Mr. **Weisberg**. Believe me, over the years they have explained the reasons, which have been many and varied as to what went wrong at any particular time. A lot of times it was that the money wasn't there to make the purchase or you had to send it out for bidding. The bidder that won was different from the one that you really wanted, but you have to take the low bidder.

I blame GSA for all our problems.

Mr. **Parker**. I think there is enough responsibility to go around, but the local people were not asked what needed to be done, and they are the ones that had to do the work.

Mr. **Weisberg**. We need programs that we don't have to dream up ourselves, and they are working on that. We just got one for the hearing officer.

Mr. **Parker**. Are you ever given any input as far as somebody coming to you, saying tell us what you can do to make your job better?

Ms. **Moffitt**. Absolutely.

Mr. **Parker**. Do they listen to you?

Ms. **Moffitt**. As far I am concerned, they do, sir, yes. What I see as frustrating is it then takes so long to finally get it, due to all the things that he explained. There may not be enough money to buy the equipment, or whatever.

But I would again say that if I could think of any one thing—

Mr. **Weisberg**. Mr. Bartruff is involved with our MEPP program, and that is where a lot of this new input is coming from. We just call him up, give him an idea, and he can run it if he wants to and make sure it works.

Mr. **Bartruff**. This MEPP is the management efficiency pilot program. We are taking any and all suggestions from employees. Nothing is ever turned down. It is written up with the problem, a particular reference in how it is done, the proposed procedure and the benefit. Some are turned down and some are accepted, but we do get quick answers to them.

There is a lot we can do. It is a procedural or manual change which affects timeliness. We can cut a week off here or maybe 2 or 3 days where the file has to go between divisions. There is a lot which would be a tremendous enhancement, but is all bottled up in this ADP programming. I will say, "This can be done," but you are talking about 18 months of programming or computer time or whatever it takes to do that.

So there is a lot of it backed up which would save time for the claims examiner, who is spending so much time looking up various things, running through screens. There are things they could really change but again, they are hung up in the lack of a program, or whatever. I am not sure what is all in line, but we just don't get all of that out.

Mr. **Parker**. The experience on this panel ranges from 15 years to over 20 years?

Mr. **Weisberg**. Over 30.

Mr. **Parker**. A rough life.

So you are in a situation where you have seen a lot of things happening, but what I get from what you are saying is we are finally getting to the point where there is some input, you have waited for this for a long time.

Mr. **Weisberg**. For the money and for the equipment and the programming.

Mr. **Parker**. We waited till we broke before we started making these decisions because it was forced on us.

Mr. **Bartruff**. It has been there but it was just maybe a little bit slower in getting done. There have been some alterations of manual procedures to help skip things along. The manual isn't that sacred.

Mr. **Parker**. I just want you to know I appreciate the job you are doing. You have got a heck of a hard job, and it is a situation where I appreciate everything that you can do. I hope that this subcommittee can be of some help to you.

Thank you very much.

Thank you, Mr. Chairman.

Mr. **Applegate**. Mr. Sangmeister.

Mr. **Sangmeister**. Yes. Thank you.

The bottom line, of course, of this hearing is to find out what we can do to get claims expedited with that array of talent sitting at the table right now, if you know the answers to these problems. No one on this committee will, I can tell you that.

As I listened to your testimony, you are not all attuned 100 percent together, but it is kind of refreshing to hear that more personnel is not necessarily the answer.

I hear from Mr. Weisberg that additional time for overtime—that I can understand—would be important. But as I understand it, then, the real problem lies in getting in automated data processing type of equipment.

Is that what we need? If everybody has that in their offices, we could process the claims faster; is that a general vision? That is correct or incorrect?

Mr. **Weisberg**. I would say it is correct. I am a test station in Cleveland for some of the new automated systems. Any month now I will get word processing for each individual adjudicator on his TARGET screen at his desk. We are busy putting in all the letters and various word processing assists so they don't have to create the whole letter themselves. They can call up a pattern letter, do some fill-ins, maybe have a paragraph they can add if they wanted. These letters then cover all the due process things that are required, and they can be changed at any time because they are in our local computer.

What is coming down the track is an ability to cross over from the TARGET system and get into the Wang system. This would not require any additional programming in the TARGET mini-computer itself in the regional offices. I think that is what we are eventually moving toward.

One-fifth of Cleveland, digits 00 through 19, will test the word processing system. I have to work out how to implement this. You will have an adjudicator typing the letter instead of a typing pool. Our typing pool is taking 2 or 3 weeks right now. We will have a rating specialist doing the rating, not the typing pool. This will help with timeliness.

There is a lot of little chipping away you have to do here and there. Some of the ADP initiatives are coming to fruit. Sometime this summer, we are also going to be testing the bar coding that started in Roanoke. They are just about getting done with the programming in Washington.

That is what I like. Washington is working on a program and trying to improve it. Then they ship it out to us, and we can use it.

We tested the HOLAR program, which is used to turn in the reports for the hearing officer. We are actually live on it for the month of May and we have our fingers crossed that nothing is going to go wrong. There was a lot of interaction back and forth, a lot of cursing between us and Philadelphia for a while to get the thing to work right, but it is working.

Mr. **Sangmeister**. Obviously, there would be some variation, but the other three of you basically agree with what he said?

Mr. **Bartruff**. Yes. Let me give you an example that is more graphic, the AMIE program.

The figures I am not absolutely sure of, but in the beneficiary information exchange with the hospital, the development clerk used to pick up all the admissions and sort through them for service-connection so that we could control these cases. In 1 month, there were 250 pieces of paper to go through. Once the computer had sorted out only those we were interested in, there were 8 of them.

That is the interesting part to me. It saves that development clerk that much paperwork. That is the big asset to this computer business. If we can get things like that going, it saves time and it gives us time for something else.

Mr. **Weisberg**. I think that is why I would say give us a couple of years without any further cuts and you might be surprised; give these things time to take hold.

Mr. **Sangmeister**. A question which may be difficult to answer. I believe Mr. Vogel's testimony was that the average claim is now 152 days. If you had the state-of-the-art equipment that was in operation today, can you give us an estimate because that is what we are talking about here. We want to cut down on the time limits. What is 152 days if you all had the state-of-the-art equipment in your offices? What is the processing time for a claim now?

Mr. **Bartruff**. If it doesn't depend on service records or outside interests, we could probably increase it by—well, I don't know how many days because it is hard to say what type of claim you are talking about.

Mr. **Sangmeister**. What I am talking about now, are we talking about 2 days going off this 152 or 60 days going off this 152?

Ms. **Moffitt**. More like 60 days because of the backlogs in typing pools. What we are talking about is word processing capability so that adjudicators can send out letters that meet all the due process requirements of the law.

Mr. **Sangmeister**. Mr. Chairman, that is apparently the bottom line that we have been looking for. From then on it is a matter of budget, and they can't give us figures on that now, or I doubt it.

Ms. **Moffitt**. When you say 60 days—if we get that. For instance, when a rating specialist dictates a case and it goes into our central transcribing unit, it takes them 3 weeks to send it back.

Then that case goes out on the floor to an adjudicator who has to dictate a due process letter. That means it goes back into the typing pool for another 3 weeks, then comes out. You are going to gain at least 6 weeks.

Mr. WEISBERG. Somewhere earlier in the case someone had to develop it, and if it wasn't handled by the computer, then you lost another couple of weeks.

Mr. SANGMEISTER. I don't suppose anybody could venture what the costs could be. Do the staff have figures on that or can we get some figures as to what it would take to update it? It is probably staggering, but if that is the bottom line, then that is where the problem is.

Mr. WEISBERG. I don't see it costing any less because the adjudicators are now going to do the work the typists did. The differential is in the price of the employees. It's timeliness you save, not costs. You may save some FTE if the adjudicator is a good typist. You might need more adjudicators because they are doing this typing.

They are already complaining, you know, saying lower our production standards since we have got to type the letters now. So that is what I am testing, to find out those things. I don't think we know it yet.

Mr. KURTZ. If I may, there are some areas—I don't want to leave the impression that the improvements in technology are the only areas where we have problems. I think John had mentioned that there are areas which are out of our control somewhat, that affect dramatically the timeliness of our benefits.

One is the request for service medical records. I mentioned earlier that I have some statistics that applied to Montgomery. In 1984, whereas it took 11 percent of our requests for service medical records over 90 days to receive a response, in December 1988 that was 22 percent. 22 percent of the time when we request those medical records, we know it is going to take over 90 days to get them back, and it is even worse when you consider just the Army by itself.

In the Army Personnel Center their timeliness figures are atrocious. What we get—again I think I speak for most everyone—is that you request records from them, and their standard response is "reply again"or "request again in 120 days." When you do that, you get a follow-up that says send another request in 60 days. Believe me, it gets tiresome and burdensome to have to keep doing this.

Another area I wish to briefly mention is the examination service provided by our sister agency. The Veterans Health Services and Research Administration is responsible for providing timely and quality examinations to us. For the most part, we base our decisions on them. It takes us approximately 80 days to receive, on the average, a completed examination in Alabama. That is approaching 3 months for a VA examination.

When we request a hospital summary, it takes us on the average of 26 workdays. That is in excess of one month to get a completed hospital summary, generally concerning the evaluation for a service-connected disability.

All of these things together add up to one thing, and that is the delay in processing time. We really need direct control over the military departments who furnish the records or even in fact our hospitals.

Mr. **Applegate**. Thank you. We know the feeling about delays. It is taking us 9 days to get our mail from the post office, which is in the basement.

Mr. Bilirakis.

Mr. **Bilirakis**. Thank you, Mr. Chairman.

I think I am gathering that you don't see the cooperation that you feel you maybe should have. One of you—it might have been Mr. Kurtz—put it very well, that you are concerned with bad backs and the people in the medical facilities are concerned with life and death; I can see that.

But are you getting the cooperation you feel you ought to have from those people? How much time does it take for your documentation to get over to them and once they have processed it to get from there back to you? Does it take 9 days, that sort of thing?

Mr. **Bartruff**. I am probably unique as far as the rest of these folks are concerned because I have a clinic just up two floors. There is a lot of concern. They do 90 percent of our requests for physicals. There is a concern over timeliness there. The hospital director, who is in charge of the clinic, is the one responsible for explaining any delays to the regional medical directors. We have designed the system so our request is upstairs in 1 day. We have a crew servicing one hospital, it is 1-day delivery.

Delivery delays are the only things we can cut down. The rest of the things are sometimes out of their jurisdiction. We will go down and ask for certain exams, but the consultant is gone. Last December we had a problem because they just didn't have the expertise when the consultant was asked to do that particular exam. So we had to wait a couple of months.

I think Kris has got some different stories when you talk about Wyoming, Montana, and South Dakota, where there is really conflict in the jurisdictions, and I will defer to her on that.

Mr. **Bilirakis**. Do you have any comments toward that end?

Ms. **Moffitt**. I have noted that, since there was a change in the budget allocations for C&P exams, it is more difficult to draw the lines of jurisdiction as to exactly which clinic should be doing the exam. For that reason, especially in small places like Sheridan, Wyoming, they do not have a psychiatrist. Then it becomes a money problem: where does the money come from to pay a fee-basis physician to do the exam?

Mr. **Bilirakis**. What do they do in that case if they don't have anybody on the staff who is qualified to do the exam? Do they farm it out? Do they contract it out?

Ms. **Moffitt**. I think that is really the main problem. They don't have the fee-basis dollars to contract out. They have been returning our examination request to Cheyenne. Then Cheyenne may, since they do have the resources of most of the different specialties, call the veteran. He may or may not want to travel from Sheridan, Wyoming down to Cheyenne for that exam.

On the other hand, in Colorado there is just excellent cooperation between the medical centers and the regional office. The timeliness of the large and small hospitals in Colorado is excellent.

Mr. **Bilirakis**. Do medical centers assign certain doctors with the responsibility to address these claims, or might it be every doctor in the hospital at one time or another?

Ms. **Moffitt**. I think the different medical centers handle that differently.

Mr. **Bilirakis**. They do it in different ways, but I can see where that can be part of the problem here. Somebody said it might take 2 months before they would even address that paperwork. You can see then why we are experiencing these delays.

Mr. **Weisberg**. If I may borrow some of her time, they handed me a piece of paper from CO yesterday. It was the best news I have seen in a long time. There was an actual management breakthrough, by the way.

One of the problems with exam timeliness has been that they have had a different measure from us. We go by average number of days from the time we ask for an exam until we get it back.

We watch whether this is getting better or worse. Their measure was, "Do you do 65 percent of the exams you have on hand in 1 month?" Then you have to do 85 percent in 2 months and all of them in 3 months. It was an entirely different way of measuring success.

Apparently the VHS and RA has now agreed to start using average days. So we are at least talking the same language now after all these years. Examination timeliness has been a problem all through the years I have been with the VA.

Mr. **Bilirakis**. So we can talk about money, we can talk about equipment and increased staff for you, we can talk about the examiner doing the timing and all of these things, but a limiting factor could be in the medical centers and quite often is?

Mr. **Weisberg**. Yes. They finally did some decent management and got the two sides to agree on the same measure. Isn't that wonderful?

Mr. **Bilirakis**. Depending on what comes out of it. It could be wonderful.

you mentioned, sir, a number of times that you feel you have enough personnel and Ystaff, yet you talk about overtime funding. You said something—if they would only leave us alone for 2 or 3 years, we could have some stability or consistency and what not.

Does that mean that the personnel you have today are less than the personnel you had last year and less that year than the prior year? Have you been cut, basically is what we are saying?

Mr. **Weisberg**. Yes, I have been cut every year more than I like.

Mr. **Bilirakis**. More than you would like. Well, I guess nobody would like to have any cuts.

Mr. **Weisberg**. Apparently, my director had better judgment than I did because I am surviving, except when somebody is on leave. Then I have trouble.

Mr. **Bilirakis**. That happens in industry. It happens everywhere.

Mr. **Weisberg**. Once upon a time you could cover. There was that little bit, that 5 to 10 percent, in extra capacity most places, so you could cover.

Mr. BILIRAKIS. But you also said don't cut me for a couple of years and then watch my smoke, or words to that effect.

Mr. WEISBERG. That is to give time for some of the modernization things to happen, because they are happening.

Mr. BILIRAKIS. Do you all have enough leeway and flexibility and authority?

Now, you know, I have worked for the Government, too, and I know all about the bureaucracy, and there are certain rules and regulations, that it is in Manual M 21-1, and that we all must adhere to these things in some degree.

But do you have enough flexibility to run your operations the way you feel they should be run, with cuts facing you, as Mr. McEwen said, in the real world here, although we shouldn't be cutting and I am not condoning cutting, but in other words, I am asking, the real world being what it is, do you feel that your hands are basically tied and you don't have enough leeway to do the things that you need to do?

Mr. WEISBERG. When things get tight, the manual becomes a limit on your discretion.

Mr. BILIRAKIS. It does?

Mr. WEISBERG. Yes. The rating boards take shortcuts when they are backed up. You don't do a complete development. You go with what you have, and it is probably right 99 percent of the time.

One of the things that got us in trouble is if there is a computer generated letter that adjudicators can get by just pushing a button, many would just push the button and not dictate it to do the job. When people have to dictate something and wait 3 more weeks before they can release the case, then they are going to take shortcuts due to the sheer volume of work on hand. That is human nature. We don't tell them to do that. That is human nature.

Mr. BILIRAKIS. I know I have been in the medical centers and have been told by the staffs that if they would only kind of leave us alone how much better we could do. Of course, they don't tell their supervisors that.

Mr. WEISBERG. Since Mr. Vogel came, there has been a lot more emphasis on listening to the problems and a lot of initiatives got started. It does take years before these start to bear fruit. But I am encouraged. I am still sticking around because I am encouraged. Things look like they are going to be interesting for the next couple of years, not dismal.

Mr. BILIRAKIS. Thank you. I certainly agree with Mr. Parker. You all do great work, and it is a tough job. We appreciate it very much.

Thank you, Mr. Chairman.

Mr. APPLEGATE. Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman.

I would like to ask the panel a series of due process questions.

How do you help your claimants keep track of all the communications you receive from the Central Office; for example, circulars and changes to adjudication procedures? Do you provide copies to each adjudicator? Do you provide them to the service organization representatives, and do you make them available to attorneys who now may be in practice before your office?

Mr. **Weisberg**. The answer to all your questions is yes. In Cleveland, furthermore, we go to meetings with the local national service officers to go over new things. The next big change is going to be this dependency review that I will be talking to them about. It is going to start any month now.

We give training where we think it is necessary. Sometimes the circulars are well-written and not that complicated. Then we leave it up to the unit chiefs to give training. But, we will get some of our best people together to give formal training when needed. We will also write our own memos to explain it in our language, and we add our own local procedures to it. It is kind of a step-by-step "how do you do it."

Certainly we have done it with due process itself. You know, that is a different system of requirments than what we were used to in the past. We had to spell it out for them, but we went that far and we had a checklist to make sure we gave claimants due process.

Mr. **Evans**. Is that being done at the other offices, too?

Mr. **Kurtz**. Yes. We follow a similar procedure. We have a division training officer, who happens to be my assistant, and any changes automatically come across his desk. He, in turn, decides the distribution as to which employee should have those changes. In not all cases do all employees have to have each individual instruction. Also, he makes sure that service organizations are on the distribution list, that they have copies.

Also, one other thing that occurs; there are changes that come in or instructions that come in outside the normal course, so to speak, primarily E mail messages or electronic messages from Central Office. We, in turn, will review those and, because they don't come through the station control officer, if they are necessary for the service organizations, we make sure that they receive a copy of those as well.

Mr. **Evans**. Any other comments?

Mr. **Kurtz**. Well, one comment. You asked whether there was any system in place to ensure copies of VA regulation changes went to attorneys. I am not aware of any system that is set up at our station.

Mr. **Evans**. If an attorney contacted you, you would make those available?

Mr. **Kurtz**. Yes.

Mr. **Evans**. Regarding the hearing officer program, do you provide veterans and representatives with copies of the guidelines governing these hearings in advance of the hearings, and will you provide this subcommittee with copies of the letters that you send the veterans and representatives describing the hearings?

Mr. **Kurtz**. As a matter of course, every time an individual requests a hearing, we have a pattern letter that we send establishing the hearing date and time, the place, and things of that nature. There is also a brief paragraph or two that explains the nature of the hearing procedure, what the individual may expect when he or she appears. I believe there is an attachment that goes with that as well that provides the instructions as well.

Mr. **Evans**. Could you share that with the committee, also? Could you provide the form letter?

Mr. **Kurtz**. Our form letters would probably vary because they are somewhat composed differently from each of the other three.

Mr. **Evans**. Could each of you provide some of those?

(See p. 70.)

Mr. Kurtz, I understand you were with the Compensation Pension Service. Now, as adjudication officer, do you review the opinions as formal guides are binding on adjudicators?

Mr. **Kurtz**. The advisory review opinions? There were recently some clarifying instructions that came out of the C&P Service and a change to our M-21 manual that clarified whether the C&P opinions are binding.

Basically, if I remember correctly, if we go in to Central Office and ask for an opinion, and we haven't rendered our decision yet, when we get the opinion from Central Office, it certainly receives all due weight, but it is not binding on us because the decision hasn't been made yet. It is just another part of the evidence to be weighed.

But if the decision has already been made and we ask for an administrative review—is this decision correct—and CO comes back and says, no, it isn't correct, you should have done this, then that is binding on us and we have to take action.

Mr. **Evans**. That is done just on a case-by-case basis?

Mr. **Kurtz**. That is on a case-by-case basis.

Mr. **Evans**. Is there any way that you have precedents determined by these opinions that you keep track of; in other words, in other cases?

Mr. **Kurtz**. No, I am not aware of any precedent library. In fact, I think that in those individual cases they are pretty much done on a case-by-case basis. If the facts and circumstances change very much, it would be hard, if not impossible, to find two cases that are exactly identical. So you would have to pretty much do it on a case-by-case basis.

Mr. **Weisberg**. What I do is call the C&P Service in Washington if there is an unusual situation, and ask if they have given any opinions in this area. Sometimes they say, "yes, we will send you a copy." We will consider it as part of our evaluation. If we like their way of doing it, well, good. Or they will say, submit it, and we submit it for advice if there hasn't been such a case.

The people in CO who work with it every day have got some kind of an index. They go look it up and see if we can share an opinion that way. Periodically, over the years, in the past 30 years, we have shared opinions. Usually they end up in a manual. If an area is unclear, in the next manual clarification they cover those areas.

Mr. **Evans**. Thank you, Mr. Chairman.

Mr. **Applegate**. Thank you, Mr. Evans.

I think the questions have been very forthright, and the answers will be very useful to us, and we really appreciate your being here.

Let me just throw one thing out. The Veterans Administration contracts with other Federal agencies for annual physical examinations and maybe some other medical contracts that I am not aware of.

Does that slow down the process? Do they use the staff and personnel to the degree that it would slow down the process?

Mr. **Weisberg**. That has speeded up the process in the past being able to go to a fee-basis physician. The problem this year is the transition to a new method of sending the requests for the exams to the closest medical facility to the veteran. VHS&RA hasn't really worked out the changes in their budget to give them money where it is needed. I am hopeful that, by next year, they will be on their way.

In Ohio, for example, Columbus was doing a tremendous number of exams and was using most of the fee-basis funding in Ohio. All of a sudden, we start sending these exams to Dayton. Well, Dayton wants the fee-basis money, but meanwhile Columbus has spent it all.

Mr. **Applegate**. Let me ask you this. What I am talking about is the VA and maybe the individual hospitals will contract for other Federal agencies in the Government.

Mr. **Weisberg**. No, we don't know of that happening as to fee-basis.

Mr. **Applegate**. Well, they can contract. As a matter of fact, I know one such hospital contracts with whoever handles MSHA, which is the mine inspectors, and they have them come in on an annual basis and give them their physicals, and they use hospital staff and hospital personnel, and I am wondering if that takes away from examinations that should be used for the veterans?

Mr. **Weisberg**. In Ohio the examining staff is not the same as the outpatient treatment staff in most of the facilities. It is a separate group that are specialized because they have to know how to do examinations for C&P rating purposes. They can't really think of in terms of current treatment. So the staffs tend to be separate.

Mr. **Applegate**. I am not saying whether it is an outpatient or whether it is the hospital. I am saying it is the hospital.

Mr. **Weisberg**. The hospital.

Could they hire more doctors if they weren't doing this?

That might be a possibility. I don't know.

Mr. **Applegate**. In other words, for veterans who are coming into the hospital, are they getting short shrift because they have contracted out to the personnel and facilities to examine people in other Federal agencies?

Mr. **Weisberg**. I think the problem is much bigger than any effect I could have. I just don't know the answer to your question.

Mr. **Bartruff**. If I understand the question, in all the years I have been in the agency, I have never heard that as an excuse as to why we can't get our exam. We have never heard we couldn't get your boys because we had these others.

Mr. **Applegate**. Well, that was the question, and that is the answer. Okay.

All right, I thank you very much. It was a very good panel. Thank you for the information.

We now have the second panel, which will consist of Mr. John Bollinger, associate legislative director, the Paralyzed Veterans of America; Mr. Phil Wilkerson, assistant director, National Veterans Affairs and Rehabilitation Commission, the American Legion; and Mr. Robert Manhan, special assistant, National Legislative Service, VFW.

Gentlemen, you have been here before. You know what this is all about. You have testified on previous occasions on timeliness. I would ask you to go ahead and proceed.

Mr. Manhan.

STATEMENT OF ROBERT D. MANHAN, SPECIAL ASSISTANT, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS

Mr. **Manhan**. Thank you very much, Mr. Chairman. After having the benefit of listening to all of the testimony provided, primarily from VA personnel, I would like to supplement our submitted testimony with some remarks today that address only the issue of quality regarding the cases that have been and are being processed through the various Veterans Administration regional offices.

We have taken two different VA reports, statistical reports, and we recognize that they are really snapshots in time of a moving train, the moving train being the endless caseloads that are being reviewed now.

But one of the two reports is the hearing officer program statistical analysis. It covers the period of time from October 1988 to February 1989, and then I will try to superimpose on that the BVA, the Board of Veterans Appeals' report of first quarter fiscal year 1989 from October to December 1988 regarding all of the cases that have been appealed up to them.

First of all, the hearing officer program did look at 6,500 cases. I am rounding my numbers off. Of the 6,500 cases, approximately 2,600 were confirmed. That means that they, the hearing officers, agreed with the initial basic decisions made by the various adjudication teams throughout the United States. 40 percent of them were done right. The remaining 60 percent fell into three categories.

The hearing officers did allow approximately 950 cases—that is, they looked at some 900-odd cases and said, there is enough documentation in here that you saw the first time that this case should not have denied or turned back; the benefit being sought should have been granted. That accounted for only 14 percent of the cases.

The remaining 44 percent of the cases, which totaled about 2,800 in round numbers, were remanded. That means they were turned back to the specific regional office, saying that there is not enough basic documentation in here addressing the basic issue upon which any reasonable person can make any kind of decision, let alone a denial; turning it down. These cases, gentlemen, were denied. That is why the hearing officer had a chance to hear it. That is 44 percent, and I stress the point of quality control.

Now, in almost the same period of time the Board of Veterans Appeals right here in Washington, D.C. worked on approximately 8,300 additional cases, and all of these cases in time preceded the hearing officer program. It just takes so long to get cases from all over the United States after they have been turned back at the regional office to the Board of Veterans Appeals, but of the 8,300 cases looked at, the BVA confirmed 5,400 of them, or approximately 65 percent. That means that the regional office was right in denying the claim.

The remaining 35 percent of the cases that the BVA looked at fell in two major categories. The BVA, looking at the same evidence that the regional offices had seen, allowed another 1,100 cases, or 14 percent, and, most critically, the Board of Veterans Appeals had to return 1,700 cases, or approximately 21 percent of their first quarter workload back to the regional offices for basic development; that is to request the basic documentation upon which any reasonable person could make a decision.

This is the thrust of my testimony. When we consider what the hearing officer program has done, superimposed on the BVA efforts, we find that the regional offices in the last 2 years are running at about a 54 percent accuracy rate. I am just talking about quality.

Thank you very much, Mr. Chairman. This concludes my testimony.

[The prepared statement of Mr. Manhan appears on p. 84.]

Mr. APPLEGATE. Phil.

STATEMENT OF PHILIP R. WILKERSON, ASSISTANT DIRECTOR, NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION

Mr. WILKERSON. Thank you very much, Mr. Chairman. The American Legion appreciates this opportunity to present its views on the operations of the Veterans Benefits Administration with respect to quality, timeliness, and due process in the adjudication of veterans benefit claims.

The subcommittee considered these problems and the agency's efforts to address them in the oversight hearing conducted in May of last year. We wish to commend you, Mr. Chairman, for holding this timely hearing to reexamine the situation.

As pointed out in our statement, staffing in the adjudication areas in regional offices has declined 41 percent over the last 10 years. The cited basis for reduced employment levels has been declining workloads and savings attributable to computer modernization initiatives.

There is, however, ample evidence of mounting backlogs of claims in the regional offices, increasing processing times and increasing number of errors in actions taken in the adjudication of processing claims.

In the opinion of the American Legion, without additional personnel resources and modernization of the TARGET system itself, little, if any, progress can be expected toward achieving the stated goals of improved quality and timeliness.

Several factors have impacted overall productivity in the offices. Many of the claims themselves are more complex and require more man-hours to fully develop and properly adjudicate. Additional time consumed in administrative procedures has been a problem in trying to improve quality control and due process. Adjudication activities have also been affected by cuts in personnel and other sections which provide necessary support services.

Mr. Chairman, our statement discusses in detail the increases in processing times for compensation, pension, and education claims over the last 3½ years. Another disturbing fact is that there has been an increasing number of errors found in the course of the Department's quality review process.

The Veterans Benefits Administration is clearly faced with a number of serious long-term problems. Various efforts, however, are underway which in time are projected to stem further deterioration in timeliness and quality and eventually allow progress towards improving the overall quality of service provided.

We believe the proposed establishment of the Adjudication Academy to provide centralized intensive training for adjudication personnel will have the most immediate and far-reaching effect on quality and productivity in the field stations.

With respect to the hearing officer program, we find it to be a substantial improvement over the types of hearings conducted by the rating boards. We are supportive of further development of this program where needed.

Mr. Chairman, you requested some discussion of management initiatives which might improve the efficiency of the claims processing activities. In the absence of any substantial increase in regional office personnel and new and more powerful ADP equipment, consideration might be given to changes in the following areas—improved supervision, training and quality control checks needed to minimize piecemeal or unnecessary, or over-development as well as under-development of cases.

One area which directly affects the timeliness and less directly the quality of veteran decisions is the scheduling and completion of the VA exams. Timely scheduling of such exams can be a problem. However, equally important, the examination must be conducted by competent trained medical personnel, according to the Physician's Guide, and the report factually adequate for rating purposes. It must then be promptly returned to the regional office for further action.

Improvements must also be made in procedures for handling and controlling mail and the files to prevent losses or unnecessary delays. Computer generated correspondence from the regional office claims must also be improved, in our opinion. These are often vague, confusing, and not sufficiently informative as to the basis for action taken on the claim, which in and of itself can create an additional workload and cause inquiries for claimants concerning the action taken in their case or additional appellate action.

Mr. Chairman, that concludes our statement. I will be glad to respond to any questions.

[The prepared statement of Mr. Wilkerson appears on p. 87.]

Mr. Applegate. John Bollinger.

STATEMENT OF JOHN C. BOLLINGER, ASSOCIATE LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA

Mr. Bollinger. Thank you, Chairman Applegate.

PVA thanks you for this opportunity to present our testimony today about various aspects of the operation of the Veterans Benefits Administrations. You know, your oversight of these benefit programs which serve our nation's disabled veterans are most important, especially in these times when health care issues dominate the budget and appropriation headlines. I feel sure that our friends at the Veterans Benefits Administration sometimes feel left behind.

I would like to focus my comments today on several areas we believe are most critical in determining whether or not the C&P service will once again be able to deliver its mission to deliver prompt benefits with a sufficient level of efficiency and accuracy.

I would also like to discuss a recent survey that our National Service Office has conducted regarding the processing of claims in the hearing officer program.

I will begin by saying that in regard to funding and staffing we continue to concur with the assessments and recommendations provided in the "Independent Budget" that we submitted earlier this year. That document is a matter of record, so I will just briefly emphasize that the link between the general operating expense account and VBA's ability to carry out numerous entitlement programs represents the driving force behind all other aspects of VBA's general operations.

Having said that, we believe the most significant areas of concern include employee training programs, automated data processing, the exchange of information between regional offices and medical centers, the quality control of claims processing within the C&P Service, and the ability of VBA to maximize the use of the hearing officer program.

First, concerning the training programs, which have been mentioned several times this morning, as the number of trained and experienced staff has declined over the past decade, critical training programs for new personnel have also suffered. Declining numbers of journeymen adjudicators continue to be responsible for the training of new employees. So we believe there is no question that centralized formal training will result in more consistent and accurate interpretations of rules, regulations, and rating schedules.

We continue to recommend the centralized training unit for VBA employees. We believe that the recommendation to establish an Adjudication Academy is the correct direction to go.

Concerning the Administration's automated data processing, we believe it is imperative that these capabilities of the Administration and C&P Service be given the highest priority. Only through the thorough implementation of sophisticated automated networks will VBA be able to deliver adequate service. We are encouraged by the model stations which are in place. I had the opportunity several months ago to observe the Model Station Alpha site in Philadelphia. That is indeed where the future is.

If these programs and similar programs aren't developed to their full potential, the ability of C&P Service to deliver quality decisions and timely benefits will continue to be significantly eroded.

Just briefly, the data exchange between C&P Service and the medical centers must be accomplished quickly. Although it is technically challenging, until this piece of the modernization puzzle is in place records will continue to be processed manually, which of course adds to the length of delays and backlogs of cases which are expected to quadruple over the next several years.

Regarding quality control, this system is in place to identify errors in the adjudication process and to assist management in determining which areas need corrective action. We are concerned that the current system doesn't provide reliable statistics on which management can act. It is our understanding that the current system can neither determine an error rate for completed claims nor determine error rates for individual programs. Without such information, we can't understand how management can assess the variety of problems that plague the adjudication process. So we would like to see VBA management take a hard look at the existing quality control system and make appropriate changes in order that it represent a true picture of the claims processing procedure.

Mr. Chairman, as a result of your letter of invitation, we have completed our own timeliness survey for C&P services. We found that although most of the claims were completed within 130 to 180 days, in several cases it went over 200 days. This is obviously much too long when one takes into consideration that many of these cases will eventually go before hearing officers and additional delays are experienced.

We emphasize that only through a complete and successful modernization effort is VBA ever going to be able to tackle these lengthy delays.

That concludes my testimony.

[The prepared statement of Mr. Bollinger appears on p. 95.]

Mr. APPLEGATE. Thanks very much to each of you. I think you have answered a lot of the questions that we had in your testimony and, I suggest, what the alternatives would be in place of the shortfall of funds, and I think it is very good input.

Mr. Bilirakis.

Mr. BILIRAKIS. Mr. Chairman, just one very brief question.

John and any others, in your turnaround time analyses that you conducted and you did such a very good job at, did you break them out in any way based on location; in other words, the large regional offices versus the small ones, for instance?

We have already had testimony discussing that in the larger offices there is a lot more flexibility and in the smaller offices they don't receive nearly as many claims. You know, they don't have the flexibility.

Did you break them out in that way and; all I am saying is if you did maybe it might be of some interest to us, Mr. Chairman, in our determination here because with the smaller ones there may not be any way to really improve the situation to speak of because you don't have the flexibility, and then with some of the other ones we have already seen that there is flexibility.

That is the only question that I have. If you do have it, maybe you could submit that.

Mr. BOLLINGER. Congressman, we did break it down. I don't have those statistics, but I would be more than happy to provide them to the committee.

Mr. BILIRAKIS. I think it would be helpful. Certainly, it would be helpful in my mind.

Mr. BOLLINGER. If I may, I would just briefly like to say I didn't get a chance to comment on the hearing officer program, but our service officers were also asked to review that program. They were unanimously consistent in their opinion that the program is going very well. They all thought it got off to a good beginning, with the exception of delays, which in some cases were up to 130 days. I know in one regional office in late April they were scheduling cases before a hearing officer in September. That of course is a pretty long wait.

Mr. **Bilirakis**. Well, we want to cut down on the delays, but we want to keep quality in the process, too.

Thank you very much.

Thank you, Mr. Chairman.

Mr. **Applegate**. Thank you very much, gentlemen, once again.

Panel No. 3 is: Mr. Al Bland, past National Commander of the Ex-Prisoners of War—he is accompanied by Charlie Williams, Executive Director of the American Ex-Prisoners of War. Mr. Rick Schultz, associate national legislative director of the Disabled American Veterans; Mr. Richard O'Dell, vice president of the Vietnam Veterans of America; and Paul Egan, legislative director of the Vietnam Veterans of America.

Al, would you like to go ahead and proceed?

STATEMENT OF ALBERT BLAND, PAST NATIONAL COMMANDER, AMERICAN EX-PRISONERS OF WAR; ACCOMPANIED BY CHARLES M. WILLIAMS, EXECUTIVE DIRECTOR, AMERICAN EX-PRISONERS OF WAR

Mr. **Bland**. Thank you, Mr. Chairman.

We in the American Ex-Prisoners of War appreciate the opportunity to again come before this committee and express our views concerning the operation of the Veterans Benefits Administration. In our testimony we will use POW for former prisoner of war.

With the enactment of Public Law 99-576, which added frostbite and traumatic arthritis to the presumptives, I would like to do some statistics of these presumptives as of January the 1st, 1989.

There were 101,285 cases before the VA. 2,229 were granted compensation, for an average of 17.82 percent, which seems very low. I think most of our fellows would like to move up to Wisconsin. In that area 26 cases were evaluated and 12 were granted. In Illinois 41 evaluated, 6 granted. St. Paul, Minnesota, 18 were evaluated, 0 were granted. Des Moines, Iowa, 11 evaluated, 3 granted. In Maryland, 11 evaluated, 2 granted. Boston, Massachusetts, 16 and 1 granted. Newark, New Jersey, 27 and 5.

And we are losing our men so fast it is not even easy to talk about.

We have had—the hearing officer program that is in effect right now, in checking with our people, we haven't had too much to say on it, only that the people that were chosen seemed to be very well-trained and seemed to be the most knowledgeable ones in the VA, but our question is they have taken the best people out and put them on one job and that leaves a whole vacuum in the area of the adjudication officers, which seems to me to be the big bugaboo, because most of them, the training—in listening this morning, a lot need more training.

Also, they say they have enough help. Yes, they might have enough help on adjudication, but when you go in the file rooms and you see two to three feet of files on top of a cabinet of these men that are being adjudicated, there is something wrong because a fellow's case could be being heard and half his file is still on top of the file cabinet. That has happened in many areas.

Last year I traveled to many hospitals and many regional offices, and that was the main thing I found. The filing system was way behind schedule. They had doctors in there filing, adjudication officers in there filing when they should be out maybe cutting down the lag time in these cases.

I think everybody has covered about as much as I was going to say. So at this time I would turn it over.

[The prepared statement of the American Ex-Prisoners of War appears on p. 103.]

Mr. **Applegate**. Rick.

STATEMENT OF RICHARD F. SCHULTZ, ASSOCIATE NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

Mr. **Schultz**. Thank you, Mr. Chairman.

On behalf of the more than 1.2 million members of the Disabled American Veterans and its Ladies Auxiliary, I wish to thank you for the opportunity to appear here today.

Clearly, the subcommittee's continued interest in the operation of the VBA reflects your concern that American veterans receive timely and quality decisions on their claims for benefits from the Veterans Benefits Administration.

Mr. Chairman, the VBA is charged with the responsibility of assuring that claimants receive accurate first rate benefits determinations. Over the past years the DAV has provided the subcommittee with our observations concerning the processing of veterans claims. These areas include the continued reduction of employees within the VBA, unacceptable time delays in receiving inpatient and outpatient records from medical centers as well as compensation and pension examinations, inadequate over-reliance on form letters and pattern letters, and also the impersonal nature of this correspondence.

Despite the continued efforts of VBA management and their employees to correct these problems, they continue to plague the Veterans Administration.

Mr. Chairman, the devastating effects of the continued loss of employees in VBA is also apparent when you consider the large backlog of claims currently pending.

In October 1987, there were approximately 167,000 pending claims. By October of 1989, it is estimated that this number will quadruple to nearly 700,000 compensation and pension claims pending.

Also, as has been mentioned here today, several regional offices routinely require upper level management employees and rating board personnel to perform routine clerical duties, another illustration of the extreme measures which must be taken because of the loss in employees.

Recently, we were informed that a large backlog exists in requesting service medical records from the Army. Obviously, the efforts that have been undertaken over the years to alleviate these problems have not yet succeeded.

Another concern is dealing with the length of time it takes to receive inpatient and outpatient records and examination reports from medical facilities. Far too many of these claims are not being processed in a timely manner because of the problems in this area. This problem is not new. Excessive delays in receipt of medical evidence by regional offices also, Mr. Chairman, places the most needy veterans in financial hardship. Oftentimes they are unable to meet their rent and mortgage payments or meet their other basic obligations.

Mr. Chairman, we were pleased to note that in the Administration's fiscal year 1990 budget as well as this committee's and its counterpart in the Senate's budget requests call for the establishment of the Adjudication Academy to institute training for new VBA adjudication employees.

The DAV fully supports and endorses this proposal. However, we also believe the regional offices need continuing training for their current adjudication personnel.

In regard to the problems of pattern letters, I would just like to point out that no matter how well a veteran's claim is processed by VBA employees, if a veteran is not provided detailed, informative notification letters from VBA advising them as to what evidence was considered and what specific action was taken on their claims, the veterans will continue to be confused about decisions rendered in their claims and needless extra work will continue to be generated by claimants requesting further explanation about VBA decisions.

In response to the questions asking our opinion about the hearing officer program, I must say that we are generally pleased with this program. However, we are concerned with the staffing problems in certain areas because of the long delays in scheduling some of these hearings. We would urge that VBA look into this matter and increase employees if necessary.

As far as the ADP problems within VBA, the independent budget of the veterans service organizations addressed this issue. We believe that additional funding needs to be placed in this area, and it is imperative and we strongly recommend the establishment of a plan to work towards better ADP equipment.

Mr. Chairman, one final point I would like to make is that, as you know, currently the Secretary of Veterans Affairs is authorized to accept devices, bequests, and gifts which are used in conjunction with the operation of veterans health services in the Veterans Health Services and Research Administration. I would like to point out that during 1988 the DAV alone, our chapters and departments throughout the country, donated nearly $8 million in cash and other hospital-related services. They include such items as kidney dialysis equipment, funding for special molecular research, televisions, stereo equipment for speech therapy, and of course the 92 vans which we have donated to transport sick and needy veterans to the medical centers.

Mr. Chairman, it seems obvious that these donations and those of other organizations have greatly enhanced the DVA hospitals' ability to provide quality health care to the nation's disabled veterans. We therefore believe that the quality and timely delivery of service to American veterans by VBA may also be substantially improved by also allowing them to receive gifts and bequests. We therefore recommend that careful consideration be given to amending current law to accomplish this worthwhile goal.

Thank you.

[The prepared statement of Mr. Schultz appears on p. 109.]

Mr. APPLEGATE. Paul.

STATEMENT OF RICHARD E. O'DELL, VICE PRESIDENT, VIETNAM VETERANS OF AMERICA; ACCOMPANIED BY PAUL S. EGAN, LEGISLATIVE DIRECTOR, VIETNAM VETERANS OF AMERICA

Mr. EGAN. Thank you, Mr. Chairman.

Rick O'Dell, our national vice president, is going to summarize for us, but I would like to make one short comment.

We are supplying a legal-sized, double-spaced copy of our statement. We did not append to that a copy of the draft GAO report from which we rather liberally quoted in the statement. I would ask the committee to enter at the point in the record after our written statement a copy of this draft report. It is not as long as perhaps some of the documents we have appended to our statements in the past, and if that would be all right, I will supply that to staff.

Mr. APPLEGATE. Without any objection, that will be entered.

[The information is retained in committee files.]

Mr. EGAN. The comment I wanted to make, Mr. Chairman, goes back to yesterday's decision in the lawsuit that we filed concerning Agent Orange. While we have plenty of cause for being very grateful for that decision, I think we would be remiss if we didn't offer some comment, particularly since in the decision in that case there are some quotes the judge used that come directly from you back in 1984, interpreting the meaning of the legislation that was under consideration at that time.

So the purpose of my comment is to thank you, Mr. Chairman, for having been as diligent on that matter as you have been in the past. Certainly given the decision, we hope that this committee will hold hearings on this subject in the very near future.

Mr. O'DELL. Mr. Chairman, members of the subcommittee, VVA appreciates the opportunity to present its views on the quality and timeliness of compensation and pension claims and the effect of the hearing officer program within the VA's Veterans Benefits Administration.

We also appreciate the invitation to share our thoughts on the types of managerial initiatives that the Department ought to be considering. With passage of the Veterans Judicial Review Act of 1988, there is a need for increased concern by the subcommittee over the operations of the VBA. Without substantial improvements and initiatives completed soon by VBA, we anticipate litigation both in the new Court of Veterans Appeals, the U.S. District Courts, and the U.S. Court of Appeals for the Federal Circuit over fundamental issues that should have been corrected by management years ago.

Since the subcommittee's hearings last May, there have been several developments that we believe further support the concerns we raised in our testimony last year. Since then the General Accounting Office has released a significant report on the VA's schedule for rating disabilities and apparently is close to releasing two additional, highly critical reports, one on the VA system for measuring the quality of its decisionmaking and another on the processing of claims.

In December 1988, the General Accounting Office released its report on the VA disability rating schedule. The rating schedule is the key factor in the $14 billion worth of VA benefits that are distributed each year in the compensation and pension programs. If that schedule is not kept up to date, VA rating specialists have to guess at how to use it. Then some veterans will continue to be paid too little, and others will be paid too much, and some will get nothing.

GAO found that the 1945 schedule is seriously out of date. Fortunately, the GAO also found that VA adjudicators, who had to guess about how to apply the diagnostic codes, often did so correctly. Nonetheless, we question the wisdom of management that permits multi-billion dollar programs to run on guesswork.

We recently received a copy of a draft General Accounting Office report. Because we understand that this report is not final and its conclusions are subject to revision, we will stick to the facts found and articulated in that report by the General Accounting Office.

This draft report indicates that there are three aspects of the VA processing which should clearly be improved. These are:

Standard notices sent to veterans do not provide meaningful information about decisions made by the VA.

Development of evidence needed to adjudicate claims is sometimes inadequate.

And claims are not always properly logged in to assure prompt processing.

At least one of these problems adversely impacted the veteran in one out of eight cases, mostly by way of delaying the decisionmaking.

In addition, in 72 percent of compensation claims and 39 percent of pension claims, the VA did not always provide the following:

They did not provide the veteran's representatives with a copy of the decision notice or send it to the veteran or provide veterans with information on their appeal rights and procedures or send to the veteran notices of administrative closure of their cases.

Our VVA service representatives who have had the opportunity to appear before hearing officers like that opportunity. Claimants appear in person at hearings more often than those who do not. Quite clearly, hearings are in their best interest and it is good to have them.

We see two major problems with the hearing officer program: one, guidelines describing the process have not been published for veterans and their representatives to learn the critical facts about the program; and, two, some hearings before a hearing officer should not be called hearings.

We have also in our written statement outlined a number of management and legislative initiatives which VVA has advanced to the committee. I will not cover those at this time. I think our written statement speaks well to them. I do appreciate the opportunity to present VVA's views on this most critical issue. I will be glad to answer any questions you may have.

[The prepared statement of Vietnam Veterans of America appears on p. 117.]

Mr. APPLEGATE. Thanks very much for your statements.

Mr. Parker.

Mr. PARKER. Thank you, Mr. Chairman. I have just got one question.

If hearings should not be called hearings, what should they be called, Mr. O'Dell?

Mr. O'DELL. These hearings before a hearing officer are basically a single-person hearing. There is no interaction necessarily in the decisionmaking process. In the past, prior to the hearing officer program, a veteran could come in and sit down in front of a rating board of three specialists. It afforded the veteran the opportunity for more than a single individual to make a decision. There was a collegial decision that was made in regard to the veteran's case.

Mr. EGAN. If I could just add to that.

In our prepared text we refer to hearings that aren't really hearings. Perhaps the best example of that is when a veteran files a notice of disagreement on an initial decision, which makes it subject to being heard by the Board of Veterans Appeals. On the appropriate form you can check off whether you want to have a personal hearing with the Board of Veterans Appeals here in Washington or have a hearing before a panel of individuals at the regional office. That panel of individuals at the regional office simply sends the Board of Veterans Appeals here in Washington a transcript of what happened.

That is not a hearing. The members of the Board of Veterans Appeal then don't have an opportunity to get any sense of the sincerity or the honesty or any of the other aspects that a personal hearing provides. So what is being billed on the form as a hearing really isn't a hearing at all.

That is what we are referring to.

Mr. PARKER. Thank you very much. Thank you, Mr. Chairman.

Mr. APPLEGATE. Mr. Bilirakis.

Mr. BILIRAKIS. Thank you, Mr. Chairman.

The question I have been really wanting to ask is about the overall procedure in terms of quality and particularly in terms of time.

Could that maybe be improved by virtue of better filing of claims by the veterans?

I guess I am really alluding to our service officers and what not. I know, I think, personally every service officer in my area, and they are dedicated in such a thankless job, but a veteran who belongs to a particular post might go to that service officer for help. Most veterans—I don't know what the statistics are—80 or 90 percent—don't even belong to a post. They expect you all and the other guys at the post to do all the work for them. They just don't go to the service officer.

My question is: Do we feel that there might be better expediting of these claims and maybe even improved quality and results with higher quality preparation of this documentation if there is better help short of going to an attorney who generally doesn't know anywhere near as much as the service officer?

Just maybe a brief answer to that. I would appreciate it. If you have anything you might give me in any more detail, I would certainly like to get something from you in writing. I think we ought to get these people more involved. They are certainly dedicated.

Mr. **Egan**. First of all, Mr. Bilirakis, I couldn't agree with you more. By and large, the service officers out there are dedicated people doing the very best they possibly can. There are instances, of course, when perhaps not the best job is done, but that is probably the exception rather than the rule.

Just to make a comment about something else you mentioned, while it is true we will handle veterans regardless of their affiliation with an organization, what is really tragic is that most veterans who are not affiliated with an organization aren't even aware of the availability of service officers.

So I am sure that if there are some improperly prepared claims that probably represents a substantial portion of them.

Mr. **Bilirakis**. Do you think, Paul, that there may be some improvement in terms of expediting and quality with some veteran help as far as these things are concerned?

Mr. **Egan**. Sure.

Mr. **Bilirakis**. Richard?

Mr. **Schultz**. Mr. Bilirakis, short of our service officers making decisions and the Veterans Administration sending it on in to them, I don't see how we can expedite any more than we already do. The processing of the claims, in a lot of cases we make sure that evidence is submitted with the claim.

Mr. **Bilirakis**. Who is we?

Mr. **Schultz**. When I say "we," the DAV.

Mr. **Bilirakis**. I am talking about veterans who don't go to the DAV.

Mr. **Schultz**. As far as what the VA can do to increase the timeliness, I don't believe it is in the actual application. I believe it lies within the problems that have been enumerated here today, such as the loss of employees, the inadequacy of the TARGET system, the dire need for ADP enhancements. Those things I believe will help on the timeliness and quality of the decisions that are made by the Veterans Benefits Administration.

Mr. **Bilirakis**. Richard, I am not trying to belittle those problems because they certainly are problems. They are definitely a very permanent part of the picture.

I guess what I am saying is we should always be looking for ways to try to improve our situation without necessarily saying, hey, more money, more this, more that. We need all that, but I am just wondering if we can maybe help by virtue of better claims preparation and better documentation, which ultimately comes to play, in a claim which has maybe dragged out over a much longer period of time because the guy really doesn't have the help that he should have.

Mr. Bland.

Mr. **Bland**. Mr. Bilirakis, in our area the VA encourages and tells the fellows to get themselves a service officer. I know they do that up in Boston, Massachusetts. They urge them to go if they are submitting their claim to them. A lot of times they call them up on the phone and ask if they have they gone to the service officer, and when they say no. Well, they recommend a service officer. The Maryland Veterans Commission is downstairs in the Federal Building in Baltimore, MD. The others are also downstairs. They recommend that they go see them.

So in a lot of respects, it helps them in their work.

Mr. **Bilirakis**. Thank you.

Mr. **Schultz**. Mr. Bilirakis, I might also point out that when you talk about timeliness and problems with the processing of claims, not all of those problems exist within regional offices.

Of course, as we have pointed out, a lot of the problems are the receipt of evidence from the military services, from the VA medical centers in the way of outpatient reports, hospital reports, and examinations, and you see at times around the country—at different stations you see the problem becoming less of a problem. You see the timeliness increase there. But as time goes on, then they go back to some of their old ways.

I think what is needed is a closer relationship between the medical centers and the regional office, you need to keep the dialog constantly going.

Mr. **Bilirakis**. I am concerned about that point, too, Richard. I raised it earlier, and I think, Mr. Chairman, we possibly ought to look into that area, too, to see if there is proper cooperation and coordination between those two.

Thank you, Mr. Chairman.

Mr. **Applegate**. Very good.

Mr. Evans.

Mr. **Evans**. Thank you, Mr. Chairman. I want to salute all the veterans organizations that have testified here today on panel 2 and panel 3, but I particularly want to congratulate the Vietnam Veterans of America for their successful suit on behalf of those stricken with Agent Orange.

I do find, however, that it is regrettable that a veterans organization has to resort to the Federal court, basically, to get the Veterans Administration to live up to laws that we have already passed here out of this committee, out of the Congress and the Senate and that have been signed by the President of the United States.

So I support their actions, and I think it has been long overdue that we recognize those veterans who are having problems because of their exposure to those toxic herbicides in Southeast Asia, and I want to ask them just how long some of these 31,000 people have been waiting for a proper consideration of their cases and what they might suggest that the VA do now that this court has handed down these decisions determining that 31,000 cases should be reconsidered.

Mr. **O'Dell**. Mr. Evans, I have read the judge's decision in the case that you are referring to. It is somewhat ambiguous. The 31,000 cases, as I read the decision late last night, only encompasses claims that were filed during a very limited time period, following the promulgation of VA's Agent Orange rules in 1985.

So we are only dealing with 31,000 veterans of a very specific time—and this is subject to correction—from 1985 until, I think, early 1987. That does not address the issue, it is my understanding—and I am not an attorney—that the court's decision does not address the plight of the tens of thousands, perhaps hundreds of thousands of other veterans that have come forth over the past number of years with complaints and concerns about exposure to toxic chemicals while serving in Southeast Asia.

Mr. **Evans**. Since some of them have gone in since 1985 at the earliest, I guess under the new regulations, I suppose granting a response to the national legislation that was passed, is that correct?

Mr. **O'Dell**. That is correct.

Mr. **Evans**. There must be some way that we can expedite the reconsideration of those claims.

Would you have any suggestions along those lines?

Mr. **O'Dell**. I think the judge's opinion is very clear. Mr. Egan noted this earlier, the Chairman's remark that this is not a cause and effect type situation and that this committee, the House Veterans Affairs Committee and the Congress has seen fit in the past to award compensation for other disabilities based upon presumptions.

Clearly, this court decision would indicate that there is enough presumptive evidence to begin to compensate Vietnam veterans for exposure to Agent Orange. It would be up to certainly the VA to go back and look at its rulemaking process and to also apply the doctrine of reasonable doubt, and the judge did find quite clearly that the VA did not, as defined by Chairman Montgomery of the House Veterans Affairs Committee, award the tie, if you will, to the runner in this case. The doctrine of reasonable doubt was not applied in promulgating these rules.

So where we go from here I don't know. We need to talk to our legal services staff and get some opinions on it. Certainly, it is something that the Congress needs to consider perhaps in legislation because you are in fact dealing with a piece of legislation which passed almost 5 years ago. The intent of that bill is very clear. It has been shown in this court decision, that the VA has not lived up to the intent of the bill and the will of Congress.

Mr. **Evans**. Thank you.

Thank you, Mr. Chairman.

Mr. **Applegate**. Thank you, all. I would tend to agree.

Charlie, did you have something?

Mr. **Williams**. Mr. Chairman, I just wanted to say one thing, that I think that what we are talking about here with Agent Orange is a presumptive, and one of the things that we in the exprisoners of war community have noted is that you people passed presumptives, you have passed 15 of them for us in the last 6 or 8 years. They were intended to do one thing very specifically, yet the VA interprets "presumptive" entirely differently, I believe, than the Congress of the United States did when they passed those laws.

That is exactly the same thing that the VVA is being faced with with their Agent Orange suit, but it is not a new problem. It is something that has been around. They don't recognize what you meant when you said "presumptive."

Mr. **Egan**. Mr. Chairman, if I could just offer one comment in response to this.

You have seen as a result of the decision in this lawsuit that the VA has played fast and loose with the original legislation and certainly with the Congressional intent of that legislation.

Sure, the 31,000 claims apparently are going to have to be rereviewed, but I expect that the VA is probably going to find some new rule that will justify or lay some foundation upon which it can make decisions in those 31,000 claims that they don't have to review.

I think it certainly falls to us and most certainly falls to the subcommittee to be especially vigilant to see that whatever the VA promulgates with regard to its decision that it is not again going to play fast and loose with Congress' intent.

Mr. Applegate. Thank you very much, Paul.

I would again congratulate the Vietnam Veterans of America for their success in this. I suppose there is some ambiguity here in what the ultimate decisions will be as we look on down the road, but at least for some there is some very definite light at the end of the tunnel, and I am sure that from here the Veterans Administration is going to start moving forward, and we hope that would be the case.

There will be some questions that we will want for the record that we will be sending to the various veterans organizations and to the VBA and perhaps the adjudicators who have so kindly come in and talked with us.

[The information appears on p. 130.]

Mr. Applegate. And of course all statements in full will be made a part of the record.

Does the committee have anything for the good of the order at this time?

[No response.]

Mr. Applegate. If not, we will adjourn.

[Whereupon, at 12 p.m., the subcommittee was adjourned.]

APPENDIX

STATEMENT OF
R. J. VOGEL
CHIEF BENEFITS DIRECTOR
DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS' AFFAIRS
HOUSE OF REPRESENTATIVES
MAY 9,1989

Mr. Chairman and members of the Subcommittee:

I am pleased to be here today to discuss the adjudication of compensation and pension claims in our regional offices, and associated issues raised in your letter of invitation to Secretary Derwinski.

I'd like to begin with the subject of the timeliness and quality of our claims processing activities. It now takes an average of 152 days to process an original claim for disability compensation. This is four days more than it took six months ago. Similarly, the average processing time for a non-original claim is 100 days, an increase of three days. This is a continuation of a trend that has been going on for some time. We believe a large part of this is due to the fact that veterans' benefits programs, and the laws and regulations governing them, have multiplied and grown more complex.

In addition to the details of the death and disability compensation programs, adjudicators must comprehend all of the intricacies of three different pension programs, more than a dozen education programs, and a myriad of special ancillary programs. The burden placed on claims examiners is heavier than staffing and workload indicators would suggest. As only one example, I point to the intricacies of our current due process procedures, one feature of which is a legally-mandated 60-day delay when certain running awards are suspended, reduced or terminated.

We have several initiatives underway that should help us improve our timeliness and quality; many others have been completed. A comprehensive list of the initiatives is attached for the record. At this time, I would like to discuss a few of the initiatives that will improve our operations in the timeliness area.

° We are about to begin testing an automated exchange of data between the St. Petersburg regional office and the five medical centers in Medical District 12. In addition to reducing the amount of time expended in transmitting information between VA installations, this computerized exchange will ensure that only those cases which actually require adjustment or review are brought to the attention of the claims examiners. When testing is completed, we will make this program available to other sites as quickly as equipment funding and availability permit.

° We are also working on a project to allow adjudicators to use a special word processing program to produce and release some letters from within the division, thus eliminating delays associated with routing dictation or worksheets to a centralized typing pool. We have canvassed our regional offices to identify locally-developed computer programs that have potential for increasing the effectiveness and efficiency of our operations. Those with merit will be exported to other regional offices.

° In addition, we continue to help national veterans' service organizations train their service officers so that they will be better able to obtain all necessary information and evidence from their claimants as they help prepare claims for presentation to the VA.

An initiative that should help in both the timeliness and quality areas is the rewriting of M21-1, the manual that contains the technical guidelines and instructions for the processing of compensation and pension claims. Although it has been updated conscientiously over the years to reflect procedural changes, this manual has never been revised to reflect organizational and workflow changes. In addition to these elements, the rewritten version will include a subject index and appropriate references to the controlling regulations. M21-1 will be rewritten by sections. The target date for completion of the first section is August 1989. The final completion date is October 1990.

On the subject of quality of claims processing, Mr. Chairman, I have a development to report of special interest to the Subcommittee. As you know, we presently use statistical quality control (SQC) as a systematic approach to determine whether quality is being maintained at an acceptable level and to determine when action to improve quality is necessary. The fact that our SQC methodology was not designed to supply a national error rate has been a source of confusion and frustration to many. In response to those concerns, we are developing procedures which will provide separate nationwide claims processing error rates for the compensation and pension programs. We expect to implement these new data collection procedures on October 1, 1989. The new system will augment rather than replace our current SQC system.

Another initiative in the quality area pertains to improved training of adjudication personnel. In the past, each regional office has been responsible for training its own personnel. This system worked well when we had sufficient manpower to devote to training tasks and while our programs were relatively straightforward. Over the last few years, however, the complexity of claims processing has increased tremendously. Simultaneously, the staff and time necessary to provide top-notch training in the regional offices have been subject to budgetary pressures and growing backlogs of claims. Inadequate training means a greater number of processing errors which, in turn, means loss of timeliness and productivity. We have concluded that the best way to break this cycle is by establishing a centralized training academy.

The academy will be located here in the Washington area. Initially, its primary assignment will be to provide six weeks of basic adjudicative training to all new adjudicators. As budget and manpower resources permit, its role will be expanded to include refresher training for adjudicators and rating specialists, plus specialized training for divisional managers. While we already provide most of this training on an annual basis, we are optimistic that centralizing this effort at the academy will increase both the quality of training and the level of excellence we require of our field staff.

Provided necessary equipment and travel funding are approved, the first group of new adjudicators should report to the academy in mid-fiscal year 1990. We believe that the uniform and comprehensive training provided by the training academy will simultaneously improve quality, timeliness and productivity.

Another point of focus in the area of quality enhancement involves reemphasizing to our regional offices and to our Central Office staff - that quality, timeliness and productivity are all equal partners. Multiple management tools and sources of information are available for evaluating the claims examining operation. However, because the process of assimilating all this information often must compete with other demands in the pressures of day-to-day operations, knowledge about and responsibility for quality can become fragmented. We intend to make a concerted effort to ensure that "managing quality" receives the same emphasis and attention as other phases of claims processing.

In your letter of invitation, Mr. Chairman, you asked us to address the issue of consolidation of regional office functions. Some while ago, when the adjudication officer's position in Cheyenne became vacant, we placed the Cheyenne adjudication division under the supervisory control of the adjudication officer in the Denver regional office. We refer to this action as a "remote functional consolidation."

We continue to monitor this operation closely. Overall, we have been pleased with the success of this joint venture and, if a comparable situation should arise, we will consider establishing a similar partnership. I should stress, however, that we do not have any current plans to close a division and relocate its personnel to another station.

In future years there could be workload shifts which would alter our current position. If this should occur, I can promise you, Mr. Chairman, that no consolidation of functions would take place unless we were absolutely convinced that claimants would continue to have access to necessary services and that the move would in no way adversely affect the quality and timeliness of claims processing.

I'd like to take a few minutes to talk about our new hearing officer program. In 1988, in response to demands placed upon us by the settlement of the Semenchuk v. Walters lawsuit, we created the position of "hearing officer."

Hearing officers conduct all post-decisional personal hearings on compensation and pension issues. They also conduct hearings in certain instances in which a claimant wishes to contest a proposed adverse decision. Following the hearing, the hearing officer is responsible for determining whether evidence presented during or solicited after the hearing warrants approval of the benefits being sought.

We have appointed a total of 40 hearing officers. Twenty-four are assigned full-time to a specific regional office. The remaining 16 are "itinerant," that is, they are assigned to a "hub" station and make regular visits to smaller, neighboring regional offices.

When we implemented this program, fears were expressed that it was the preliminary step toward abandoning the long-established policy of requiring two or more signatures on crucial eligibility decisions. We have not nor do we intend to change this fundamental policy.

A hearing officer becomes involved in a claim only after a three-person rating board or a two-person authorization team has made an initial decision on a claim. At that point, the claimant is advised of all due process rights. One of those rights is the right to a personal hearing before a fresh decision maker. Under our new program, the hearing officer is the fresh decision maker.

The hearing officer has the same authority and the same limitations that applied to our three-person hearing panels, except that the hearing officer is authorized to prepare a single-signature decision following the hearing. A hearing officer can, if new and material evidence is presented, overturn the decision previously reached by a rating board or authorization team. We have been very careful to institute safeguards which ensure that this power is not abused.

- First, the hearing officer operates under the direct supervision of the adjudication officer.

- Second, a hearing officer's decisions are subject to quality assurance reviews at both the local and Central Office levels.

- Third, the hearing officer's decisions are passed to a rating board and/or an authorization team for implementation.

If any of these individuals believes that the hearing officer has made a mistake or exceeded the limits of authority, he or she can refer the case to the adjudication officer. The adjudication officer has the options of submitting the case for an administrative review or for an administrative appeal. Finally, the hearing officer program is subject to one of the strongest quality checks in the system--the oversight provided by the service organization representatives in the regional offices.

In the six months since the program was initiated nationwide, 8,000 hearings have been conducted by hearing officers. Feedback from national veterans' service organizations and claimants has been very positive. We have monitored the program closely and are satisfied that, in general, it is operating very well. We have identified certain workload and timeliness problems that need to be addressed and corrective action will be taken.

Turning to a different subject, Mr. Chairman, I'd like to give you a report on what the Veterans Benefits Administration is doing in response to a General Accounting Office study which recommended that we do a comprehensive review of the Schedule For Rating Disabilities (part IV of title 38, Code of Federal Regulations). VBA has agreed to review and update, as necessary, the medical criteria contained in the rating schedule. Neither we nor the Veterans Health Services and Research Administration have the resources to do an immediate review of the entire schedule. Instead, we will systematically work our way through it, studying one body system at a time. The genitourinary system has been selected as the first to be reviewed.

Because the rating schedule is a part of the CFR, proposed changes will have to go through the rather lengthy process required for the development and publication of all regulations. This process allows all interested parties to participate in the process. It is our intention to proceed in a manner that will encourage full public participation in this project, since the rating schedule is the basis of most fundamental decisions affecting veterans' benefits.

Work is already underway on the review of the rating schedule. Comments on the rating schedule's medical criteria for the genitourinary system have already been solicited and received from the Veterans Health Services and Research Administration. The next step will be to solicit comments from the public through a notice in the Federal Register. All comments received will be carefully studied before revised criteria are drafted. We anticipate that action on the genitourinary amendments will be completed by April 1990.

Mr. Chairman , this concludes my formal testimony. I would be happy to answer any questions you or the other members of the Subcommittee may have.

STATEMENT OF THE HONORABLE MICHAEL BILIRAKIS
SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
MAY 9, 1989

THANK YOU MR. CHAIRMAN FOR CALLING THIS HEARING ON THE TIMELINESS AND QUALITY OF PROCESSING OF CLAIMS BY THE VETERANS BENEFITS ADMINISTRATION.

I FIRST WOULD LIKE TO COMMENT ON THE DEPARTMENT OF VETERANS AFFAIRS NEW INITIATIVE TO BEGIN AN AUTOMATED EXCHANGE OF DATA KNOWN AS "AMIE" -- "AUTOMATED MEDICAL INFORMATION EXCHANGE" -- IN THE ST. PETERSBURG REGIONAL OFFICE. THIS NEW EXCHANGE WILL ENABLE THE FIVE MEDICAL CENTERS IN MEDICAL DISTRICT 12 -- BAY PINES, GAINESVILLE, LAKE CITY, MIAMI AND TAMPA -- TO TRANSMIT PERTINENT DATA BY COMPUTER. OBVIOUSLY THIS WILL SPEED UP THE PROCESSING OF VETERANS CLAIMS.

MR. CHAIRMAN, I DO NOT BELIEVE THAT I NEED TO TELL YOU OF THE GROWING VETERAN POPULATION IN THE STATE OF FLORIDA. WITH THIS INCREASE IN THE NUMBER OF VETERANS, THERE HAS BEEN AN INCREASE IN THE NUMBERS OF CLAIMS FILES WITH THE ST. PETERSBURG REGIONAL OFFICE. WHEREAS OTHER REGIONAL OFFICES ARE EXPERIENCING A DECLINE IN THEIR CASELOADS, THE NUMBER OF CASES IN ST. PETERSBURG ARE RAPIDLY INCREASING, WITH THE EXCEPTION OF EDUCATION CLAIMS.

CURRENTLY THE ST. PETERSBURG REGIONAL OFFICE HAS RESPONSIBILITY

FOR 1.5 MILLION OF FLORIDA'S VETERANS. THAT OFFICE HANDLES 40% MORE THAN ANY OF THE OTHER 58 REGIONAL OFFICES NATIONWIDE. THAT FIGURE REPRESENTS 6% OF THE TOTAL NUMBER OF CLAIMS PROCESSED BY THE ENTIRE VETERANS BENEFITS ADMINISTRATION. THIS OFFICE HANDLES MORE CASES THAN ANY OTHER OFFICE IN THE NATION. AND I MIGHT ADD THAT ST. PETERSBURG'S AVERAGE PROCESSING TIME IS BELOW THE NATION AVERAGE. I COMMEND ALL OF THE VA EMPLOYEES IN THE ST. PETERSBURG REGIONAL OFFICE.

ANOTHER DISTURBING FACT TO ME IS THE FACT THAT WITH THE INCREASE IN THE NUMBER OF CASES IN ST. PETERSBURG, THE NUMBER OF VA EMPLOYEES ARE DECREASING. HOW CAN WE POSSIBLY EXPECT FEWER VA EMPLOYEES TO PROCESS MORE VETERANS CLAIMS?

I LOOK FORWARD TO HEARING FROM THIS MORNING'S WITNESSES AND IN PARTICULAR LOOK FORWARD TO COMMENTS REGARDING THE EFFECT OF THE VETERANS JUDICIAL REVIEW ACT ON THE PROCESSING AND TIMELINESS OF VETERANS CLAIMS.

THANK YOU MR. CHAIRMAN.

The Department of Veterans Affairs modernization program is described in the Departmental Information Systems Plan and further defined in the Agency Operating Plan. We plan to implement a distributed, disbursed network designed to provide automated processing capability to the regional offices. The software as well as the hardware will facilitate access to data when and where it is needed. The system and its components will be based upon standards of interoperability to ensure vendor independence. This will allow data exchange between VBA data bases as well as other governmental and non-governmental data bases. The improved system will also provide workload and administrative information that is timely, accurate and easily accessible.

Because the modernization effort is a long term, multi-year endeavor, we also are working to provide interim relief in critical program and benefits areas. Twelve projects with a positive cost benefit ratio are underway today. These projects are: automation of the Loan Processing system; automation of the Loan Guaranty Payment file; automation of the Fiduciary and Field Exam; Regional Office access to CAROLS/CALM History; VBA/VHSR&A Automated Information Exchange; automation of the Voucher Integrated Payment System; automation of Payment History; File Maintenance Operations; Control of Veterans Records; and, Integrated TARGET/OA access for central office and regional office personnel, for outbased staff, and for itinerant staff. Each of these projects is under development, in a testing mode, or being implemented. Each makes use of state-of-the-art technology such as bar coding, fourth generation languages, and/or automated interfaces that will allow different vendor supplied equipment to communicate with other vendors' equipment.

A prototype system using advanced technology is operational in the St. Louis regional office. Optical disk equipment, fully integrated with Target and the existing Wang office automation system, is employed to process the Chapter 30 Educational benefits claims and manage case load assignments.

In conjunction with the modernization effort we have implemented the model station concept. The model station provides an environment for testing new technology from both technical and functional perspectives. In addition it makes it possible to rapidly test applications conceived and developed by field station personnel for potential implementation throughout VBA. Costs, benefits, and implementation schedules are developed by teams of model station, Central Office and field station personnel for presentation to and approval by the Chief Benefits Director. This approach actively involves the ultimate end user, the staff in the regional offices, but puts no additional burden on them because all testing and evaluation are done outside the production environment.

Toward the goal of modernization we have completed several major milestones. A thorough study of the telecommunications requirements, traffic patterns, and security needs of the Benefits Delivery System has been completed. Also completed are a complex analysis of the work flow in the regional offices, and documentation of current systems operation and maintenance costs that will provide baseline data for comparison with the modernized system. VBA has leveraged its investment in current hardware owned or leased by the government by acquiring surplus computer and disk storage devices from the GSA excess equipment program to ease the immediate capacity problems on production machines.

VBA has just completed a nationwide upgrade of the Wang equipment used for office automation and a limited amount of local application processing. The development of the data architecture for modernized systems that will standardize naming conventions and eliminate data redundancy is also underway. As data models are completed, they will be tested in a prototype environment to validate the distributed concept and to size the requisite VBA platform for the regional offices. Also ongoing in the data administration area is a contractor study of commercially available data base management systems to support VBA's processing requirements.

Task orders have been prepared for contractor assistance to complete the economic analysis of the centralized vs decentralized approach. Contractor assistance is also available to augment staff in the preparation of the Functional Requirements Definition and the Detailed Requirements, both of which will support the technical specification portion of the competitive procurement. Projects beginning in June 1989 are the alternatives assessment and the acquisition strategy to implement the selected alternative, and a demonstration project to access Department data using a relational data base management system.

Maintaining current levels of benefits to the veteran throughout the modernization is a goal being met in several ways. Staff and contractors have begun the analysis and conversion of antiquated program code to improve maintainability of systems. Other code is being restructured and retrofited for performance optimization. Staff are examining commercially available products to replace Insurance Valuation systems and are revising system interfaces with Department of Treasury systems.

In addition to governmental oversight of the modernization program by GAO and OMB, management review is provided within the Department at several levels to ensure that all procurements and ADP initiatives undertaken will move the Department toward the modernization goal. Additionally, management review is supported by contractor personnel using automated systems to highlight project dependencies and note any slippages in the critical path. Monthly updates of the Operating Plan, highlight reports to the Deputy Secretary, and weekly information exchange meetings all provide current status to aid in managing the modernization program.

MAJOR INITIATIVES PROJECTED FOR COMPLETION
1989

- Modernization Studies
  - Office Automation Support Study
  - Records Management Study
  - Database Management System Study
  - Telecommunications and Security Study
- ADP Code Modernization
  - 7080 Autocoder Conversion (Insurance)
  - IBM/Honeywell COBOL Code Improvements (restructuring)
- Nationwide OA Equipment and Software Upgrade
- Optical Disk (Folderless File System) Prototype
- Interim Solutions to Capacity Management Problems
  - Acquire Migration Mainframe
  - Acquire Data Storage Equipment
- Target Improvements
  - Merge Chapter 34 and Chapter 30 Systems
  - Expand Chapter 31 Functionality
  - Automated Payment History File
- Develop and Execute the Distributed Processing Prototype Project
- Develop Performance and General Requirements for Stage I (distributed/decentralized processing)
- Automate Loan Production Processing
- Claims Folder File Management System
- Local Processing Initiatives
  - VBA and VHS&RA Data Exchange
  - Bar Coding
  - F&FE
- Replacement of Insurance Valuation Systems with Commercially Available Product
- Revision of Treasury System Interface

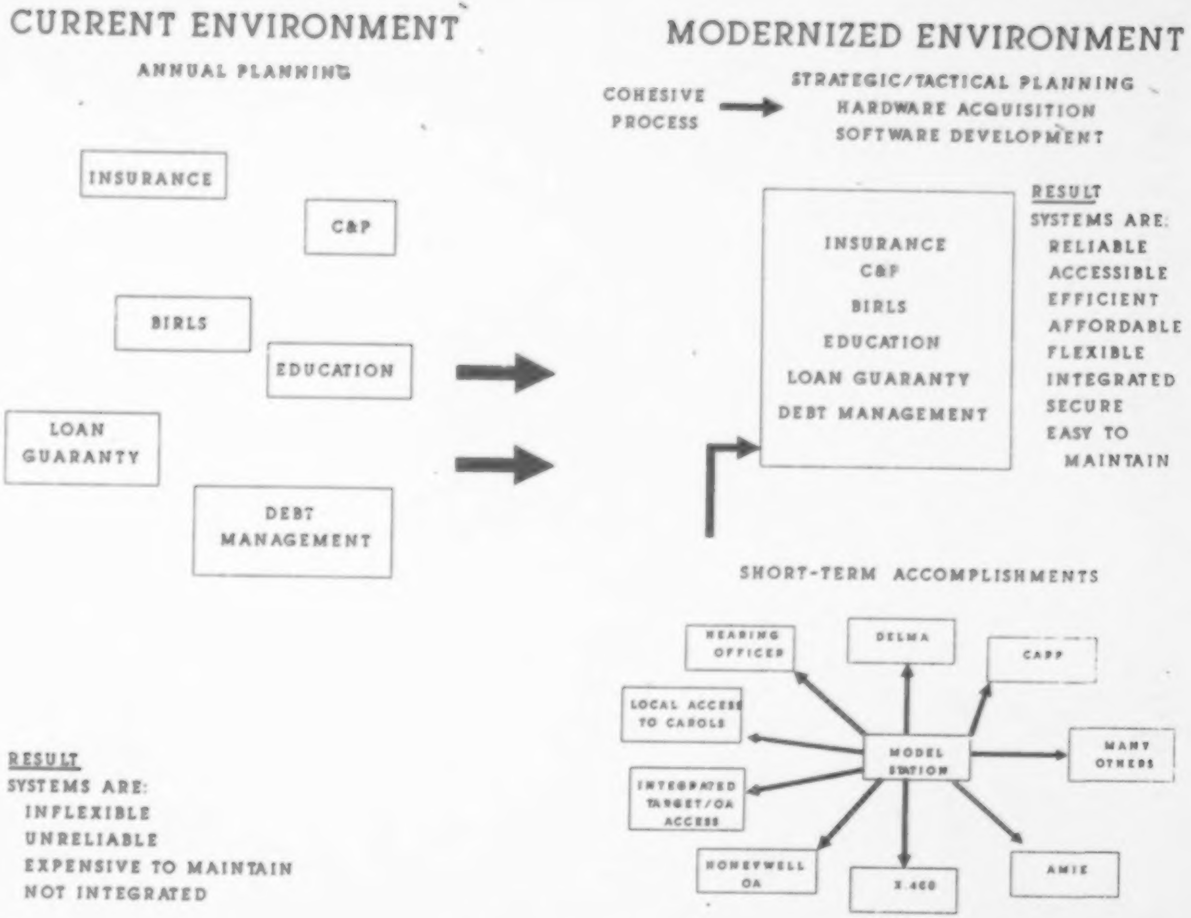
MAJOR ACCOMPLISHMENTS ACHIEVED

1988 and 1989

- Honeywell Target Terminal Replacement (1987-88)
- Redesigned the BIRLS System and Expanded System to Add VHS&RA and NCS (1987-88)
- Chapter 30 Education Benefit Program Installed
- Established and Operated Model Stations
- Approved Model Station Projects for Nationwide Implementation
    - Chapter 32 Accounts Receivable Program
    - Loan Guaranty Appraisal Program
    - Local Access to the CALM System by Regional Offices
    - Hearing Officer Letters and Report System (HOLAR)
- Cost-Benefit Analysis Completed on Identified Short-term Initiatives
- Developed and Began Installation of the Code Sheet Elimination Project for the Loan Production System

MAJOR INITIATIVES PROJECTED FOR COMPLETION
1990-1991

- Evaluate Stage I Alternatives
- Complete Functional Requirements Document for Stage I
- Test, Evaluate and Recommend Model Station Initiatives
- Select Stage I Strategy and Develop Detailed Requirements and an Implementation Plan
- Preparation and Release of an RFC for Stage I
- Automate Property Management System
- Automate Loan Guaranty Construction and Valuation Processing
- Acquisition and Pilot Project Use of Commercial Products for Software Engineering
- Automation of Loan Guaranty Payment Reporting
- Use of Bar Coding Technology in Workload and Paperwork Management



CURRENT ENVIRONMENT

ANNUAL PLANNING

INSURANCE

C&P

BIRLS

EDUCATION

LOAN GUARANTY

DEBT MANAGEMENT

RESULT
SYSTEMS ARE:
- INFLEXIBLE
- UNRELIABLE
- EXPENSIVE TO MAINTAIN
- NOT INTEGRATED

MODERNIZED ENVIRONMENT

COHESIVE PROCESS → STRATEGIC/TACTICAL PLANNING
HARDWARE ACQUISITION
SOFTWARE DEVELOPMENT

INSURANCE
C&P
BIRLS
EDUCATION
LOAN GUARANTY
DEBT MANAGEMENT

RESULT
SYSTEMS ARE:
- RELIABLE
- ACCESSIBLE
- EFFICIENT
- AFFORDABLE
- FLEXIBLE
- INTEGRATED
- SECURE
- EASY TO MAINTAIN

SHORT-TERM ACCOMPLISHMENTS

MODEL STATION INITIATIVES

- Available to the field:
  - Chapter 32 Accounts Receivable Program (CARP) (F)
  - Loan Guarantee Appraisal Assignment (DELMA) (F)
  - Local Access to CALM History (July 1989)
- Approved for implementation:
  - Hearing Officer Letters and Report System (HOLAR) (F)
- Undergoing testing and evaluation:
  - Local Access to CAROLS
  - Integrated Target/OA Access for Itinerant Personnel
  - Integrated Target/OA Access for Outbased Personnel
  - Integrated Target/OA Access for CO and RO Personnel
  - Honeywell OA (F)
  - X.400
  - VHS&RA/VBA Data Exchange (AMIE/Fax) (F)
  - Consolidated School/Calendar Facility File Project (F)
- Planned for Model Station action:
  - Vocational Rehabilitation and Counseling (VR&C) Case Tracking (F)
  - Directives Tracking System (F)
  - Veterans Assistance Inquiry (VAI) Tracking System (F)
  - Remote Wang System Management
  - Wang Software Testing
  - Requisition and Control System (F)
  - Local RO Access to IFCAPS
  - MUMPS Hardware and Software Interface Alternatives
  - LPS (all subsystems)
  - Honeywell Software Testing
  - VA Certs (Electronic Certification of Attendance) (F)
  - Automated Payment History
  - Fiduciary and Field Examination (F&FE)
  - Loan Guarantee Payment File
  - Voucher Integration and Payment System (VIP)
  - Folder Management (using Hand-Held Terminals and Bar Coding)

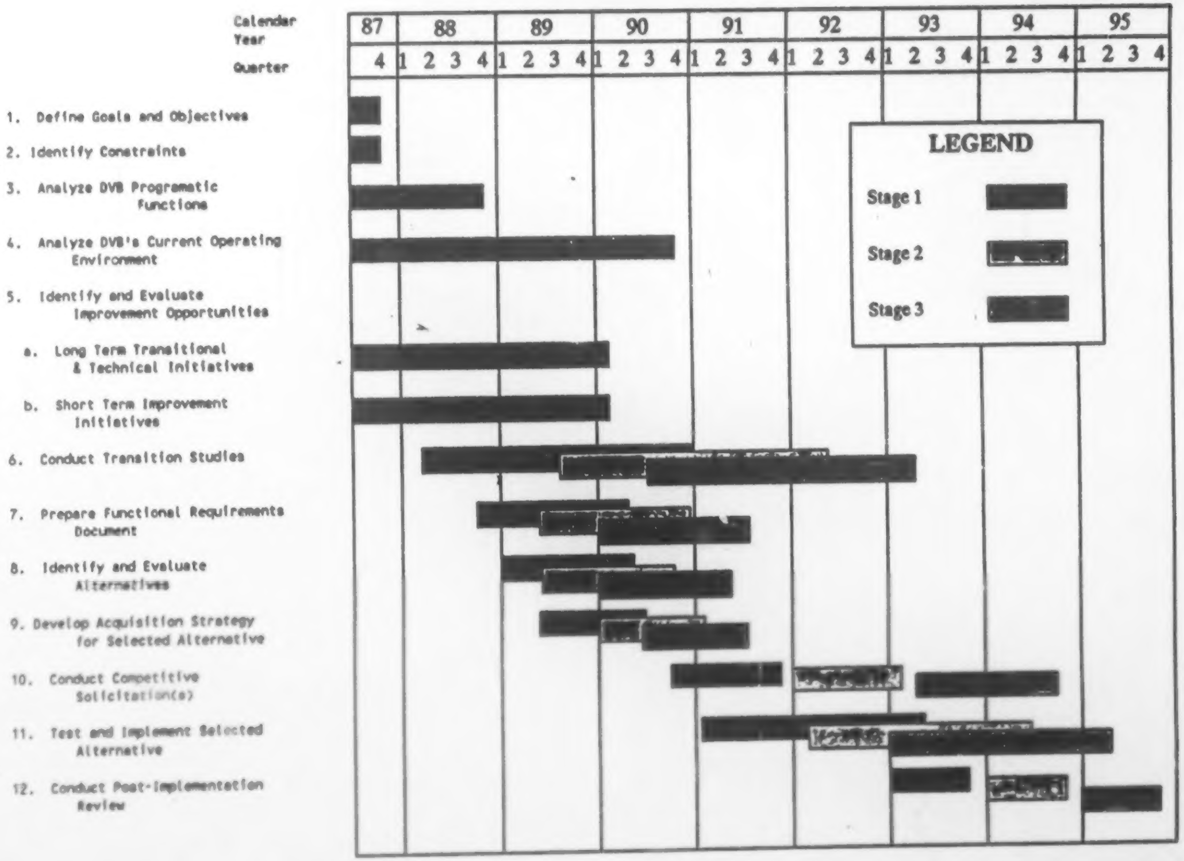
(F) - Field-Generated Initiative

FOLDERLESS FILES

The Optical Disk Prototype

- Status
  - Conceived in November 1984; operational in November 1987
  - Supports the processing of Chapter 30 in St. Louis
  - Combines image, word, and ADP processing through a single terminal -- a major breakthrough
  - Provides significant improvements in workload allocation, control, and benefit payment inquiry
- Future Plans
  - Identify system integration opportunities
  - Evaluate approaches for VBA-wide implementation
  - Test alternative methods for image processing
  - Evaluate feasibility of incorporating image processing into modernization

DVB MODERNIZATION SCHEDULE



Veterans
Administration

Attachment to All Letters

YOUR PERSONAL HEARING

Your hearing will be before a Hearing Officer or other members from the Adjudication Division Rating or Authorization staff. The procedure is informal and personal. At the beginning, we will get acquainted with you and explain how a hearing is conducted. We will check with you and your representative to be sure of the issues you want us to consider. If you have chosen to represent yourself, we will show you how to conduct your own hearing.

After this, you will "go on the record." This means that the proceeding will be recorded by using a microphone and tape so that we will have a complete record of everything said. The person conducting the hearing will identify everybody at the hearing and state the issues for consideration. You will be administered an oath or affirmation in which you promise that the testimony you give is the truth. The hearing will then be turned over to your representative to allow him/her to present any arguments on your behalf. If you are representing yourself, you may then make your presentation.

Do not be concerned about any legal technicalities. We have no formal rules of evidence. We will help you develop your case and state your argument in the best possible light. We will usually question you to clarify something or strengthen your argument. Before the hearing is closed, you and your representative will have an opportunity to make any concluding remarks and we will check to be sure you have had a chance to say whatever is on your mind.

Basically the procedure is simple and informal to give you the chance to present the best possible case through the help of both your representative and us.

Denver Letters

339/21
CSS 000 00 0000

(Name)
(Address)
(City, State Zip)

Dear Mr. (Name):

In response to your request for a personal hearing, we have scheduled a hearing for you at 3:00 p.m. on Wednesday, 11/9/88.

Our location is 44 Union Blvd., Lakewood, CO. Upon arrival at the time of your hearing, you should present this letter to the receptionist in our Veterans Services Division on the first floor of our building. As you enter the main lobby, the receptionist is just inside the door to the left of the elevator. You will then be directed to the proper room.

You have not designated a representative. If you desire that one represent you, please contact them prior to your hearing date. A list of recognized service organizations can be found on the reverse of the enclosed VA 23-22.

We have reserved one hour for the hearing. Please contact the regional office if more time will be needed, so that the schedule can be adjusted. If you desire, you may bring witnesses who have personal knowledge of the issue and their testimony will be entered in the record. The VA will furnish the hearing room, provide a hearing official, and prepare the transcript of the proceedings. No other expense connected with the hearing may be paid by the Veterans Administration.

If you are unable to appear on the scheduled date, please notify this office and arrangements will be made to reschedule the date of your personal hearing.

Sincerely yours,

K. A. MOFFITT
Adjudication Officer

enc: VA 23-22

(Name)
(Address)
(City, State Zip)

339/21
C 00 000 000

Dear Mr. (Name):

In response to your request for a personal hearing, we have scheduled a hearing for you at 3:00 p.m. on Tuesday, 1/3/89.

Our location is 44 Union Blvd., Lakewood, CO. Upon arrival at the time of your hearing, you should present this letter to the receptionist in our Veterans Services Division on the first floor of our building. As you enter the main lobby, the receptionist is just inside the door to the left of the elevator. You will then be directed to the proper room.

You have designated the [ ] as your representative. If you desire that they represent you, please contact them prior to your hearing date.

We have reserved one hour for the hearing. Please contact the regional office if more time will be needed, so that the schedule can be adjusted. If you desire, you may bring witnesses who have personal knowledge of the issue and their testimony will be entered in the record. The VA will furnish the hearing room, provide a hearing official, and prepare the transcript of the proceedings. No other expense connected with the hearing may be paid by the Veterans Administration.

If you are unable to appear on the scheduled date, please notify this office and arrangements will be made to reschedule the date of your personal hearing.

Sincerely yours,

K. A. MOFFITT
Adjudication Officer

cc: [ ]

(Name)
(Address)
(City, State Zip)

339/21
C 00 000 000

Dear Mr. (Name):

In response to your request for a personal hearing, we have scheduled a hearing for you at 9:00 a.m. on Tuesday, April 11, 1989.

Our location is 44 Union Blvd., Lakewood, CO. Upon arrival at the time of your hearing, you should present this letter to the receptionist in our Veterans Services Division on the first floor of our building. As you enter the main lobby, the receptionist is just inside the door to the left of the elevator. You will then be directed to the proper room.

You have designated the Law office of [ ] as your representative. If you desire that they represent you, please contact them prior to your hearing date.

We have reserved one hour for the hearing. Please contact the regional office if more time will be needed, so that the schedule can be adjusted. If you desire, you may bring witnesses who have personal knowledge of the issue and their testimony will be entered in the record. The VA will furnish the hearing room, provide a hearing official, and prepare the transcript of the proceedings. No other expense connected with the hearing may be paid by the Veterans Administration.

If you are unable to appear on the scheduled date, please notify your attorney and arrangements will be made to reschedule the date of your personal hearing.

Sincerely yours,

K. A. MOFFITT
Adjudication Officer

cc: Attorney at Law

Montgomery Letters

474 South Court Street
Montgomery, AL 36104

U.S. Department
of Veterans Affairs

In Reply Refer To:
/21

The hearing you have requested in connection with your claim will be held on - - at . Please try to report a few minutes earlier to allow for preparation time.

You should report to the Veterans Services Division (Room 412) located at the Aronov Building, 474 South Court Street, Montgomery, Alabama. Personnel there will direct you further. You should bring with you any evidence you wish to offer in support of your claim.

We have enclosed Form 21-0508. It is a brief introduction to our hearing procedures. Please note the Department of Veterans Affairs cannot pay the cost of transportation or any other expenses you may have in connection with the hearing.

If you are unable to appear on the scheduled date or time, you should notify this office as soon as possible.

Sincerely yours,

D. E. KURTZ
Adjudication Officer

Enclosure

cc:
C-file
21

474 South Court Street
Montgomery, AL 36104

U.S. Department
of Veterans Affairs

In Reply Refer To:
/21

The hearing you have requested in connection with your claim will be held on - - at .

You should report to , Aronov Building, 474 South Court Street, Montgomery, Alabama. You should bring with you any evidence you wish to offer in support of your claim. We suggest you arrive early enough to allow sufficient time to discuss your case with this service officer before the scheduled time of the hearing.

We have enclosed Form 21-0508. It is a brief introduction to our hearing procedures. Please note the Department of Veterans Affairs cannot pay the cost of transportation or any other expenses you may have in connection with the hearing.

If you are unable to appear on the scheduled date or time, please notify this office as soon as possible.

Sincerely yours,

D. E. KURTZ
Adjudication Officer

Enclosure

cc:
C-file
21

474 South Court Street
Montgomery, AL 36104

U.S. Department
of Veterans Affairs

In Reply Refer To:
/21

The hearing you have requested in connection with your claim will be held on - - at . Please try to report a few minutes earlier to allow for preparation time.

You should report to the Veterans Services Division (Room 412) located at the Aronov Building, 474 South Court Street, Montgomery, Alabama. Personnel there will direct you further. You should bring with you any evidence you wish to offer in support of your claim.

You have designated a private attorney as your accredited representative. If you desire he or she represent you at the hearing, it is your responsibility to contact the attorney prior to the hearing date.

We have enclosed Form 21-0508. It is a brief introduction to our hearing procedures. Please note the Department of Veterans Affairs cannot pay the cost of transportation or any other expenses you may have in connection with the hearing.

If you are unable to appear on the scheduled date or time, please notify this office as soon as possible.

Sincerely yours,

D. E. KURTZ
Adjudication Officer

Enclosure

cc:
C-file
21
Private Attorney

Winston-Salem Letters

Regional Office

251 North Main Street
Winston-Salem NC 27155

Veterans
Administration

In Reply Refer To:
318/21

Dear ________:

This letter is in reference to your request to appear personally for a hearing concerning your claim for Veterans Administration benefits. You have been scheduled for a hearing before the Hearing Officer at ________ on ________. The hearing will be conducted in the Federal Building, 251 North Main Street, Winston-Salem, North Carolina. You should report by ________ to Room 627, sixth floor of the Federal Building.

You will be allowed one hour to present your testimony and any additional evidence that you want considered. If you feel that you will need more time than this, please inform us as soon as possible so that the schedule can be adjusted. You may bring any witnesses that you want to the hearing, however, the Veterans Administration cannot pay for any expenses in conjunction with this hearing.

If you desire representation, the following Service Organizations maintain offices in the Federal Building and will represent you at your hearing. There is no fee for this service, but you must complete the enclosed VA Form 23-22, designating the Service Organization you wish to appoint, and return it to us in time for their review of your file prior to the scheduled hearing:

AMERICAN LEGION
AMVETS
DISABLED AMERICAN VETERANS
NORTH CAROLINA DIVISION OF VETERANS AFFAIRS
PARALYZED VETERANS OF AMERICAN
VETERANS OF FOREIGN WARS

You also have the right to acquire the services of an attorney, or designate an agent to represent you in this matter, and we will furnish additional information regarding this if you so desire.

Visitor parking is available in the Federal Building without charge. The entrance to the parking area is from Church Street and signs are posted in the building to direct you to the visitor parking area.

Additional information regarding the conduct of the hearing is provided in the attached document.

Sincerely yours,

J. H. BARTRUFF
Adjudication Officer

Enclosures
VA FORM 21-0508
VA FORM 23-22

Regional Office
251 North Main Street
Winston-Salem NC 27155

Veterans Administration

____

In Reply Refer To:
318/21
____
____

____
____
____

Dear __________:

This letter is in reference to your request to appear personally for a hearing concerning your claim for Veterans Administration benefits. You have been scheduled for a hearing before the Hearing Officer at __________ on __________. The hearing will be conducted in the Federal Building, 251 North Main Street, Winston-Salem, North Carolina. You should report by __________ to Room 627, sixth floor of the Federal Building.

You will be allowed one hour to present your testimony and any additional evidence that you want considered. If you feel that you will need more time than this, please inform us as soon as possible so that the schedule can be adjusted. You may bring any witnesses that you want to the hearing, however, the Veterans Administration cannot pay for any expenses in conjunction with this hearing.

If you desire representation, the following Service Organizations maintain offices in the Federal Building and will represent you at your hearing. There is no fee for this service, but you must complete the enclosed VA Form 23-22, designating the Service Organization you wish to appoint, and return it to us in time for their review of your file prior to the scheduled hearing:

AMERICAN LEGION
AMVETS
DISABLED AMERICAN VETERANS
NORTH CAROLINA DIVISION OF VETERANS AFFAIRS
PARALYZED VETERANS OF AMERICAN
VETERANS OF FOREIGN WARS

You also have the right to acquire the services of an attorney, or designate an agent to represent you in this matter, and we will furnish additional information regarding this if you so desire.

Unless you appear on the scheduled date or let us know prior to that time that another date will be more suitable, we will process your appeal without further delay.

Visitor parking is available in the Federal Building without charge. The entrance to the parking area is from Church Street and signs are posted in the building to direct you to the visitor parking area.

Additional information regarding the conduct of the hearing is provided in the attached document.

Sincerely yours,

J. H. BARTRUFF
Adjudication Officer

Enclosures
VA FORM 21-0508
VA FORM 23-22

____

____

Regional Office

251 North Main Street
Winston-Salem NC 27155

Veterans
Administration

____

____
____
____

In Reply Refer To:
318/21
____
____

Dear ____________:

This letter is in reference to your request to appear personally for a hearing concerning your claim for Veterans Administration benefits. You have been scheduled for a hearing before the Hearing Officer at ____________ on ______________. The hearing will be conducted in the Federal Building, 251 North Main Street, Winston-Salem, North Carolina. You should report by __________ to your Accredited Representative's Office, ______________, which is located on the ________ floor, Room ________, of the Federal Building, and your Accredited Representative will assist you in your hearing.

You will be allowed one hour to present your testimony and any additional evidence that you want considered. If you feel that you will need more time than this, please inform us as soon as possible so that the schedule can be adjusted. You may bring any witnesses that you want to the hearing, however, the Veterans Administration cannot pay for any expenses in conjunction with this hearing.

Visitor parking is available in the Federal Building without charge. The entrance to the parking area is from Church Street and signs are posted in the building to direct you to the visitor parking area.

Additional information regarding the conduct of the hearing is provided in the attached document.

Sincerely yours,

J. H. BARTRUFF
Adjudication Officer

Enclosure
VA FORM 21-0508

____

____ ____

"America is #1—Thanks to our Veterans"

Regional Office

251 North Main Street
Winston-Salem NC 27155

Veterans
Administration

____

____
____
____

In Reply Refer To:
318/21
____
____

Dear __________:

This letter is in reference to your request to appear personally for a hearing concerning your claim for Veterans Administration benefits. You have been scheduled for a hearing before the Hearing Officer at __________ on __________. The hearing will be conducted in the Federal Building, 251 North Main Street, Winston-Salem, North Carolina. You should report by __________ to your Accredited Representative's Office, __________, which is located on the ______ floor, Room ______, of the Federal Building, and your Accredited Representative will assist you in your hearing.

You will be allowed one hour to present your testimony and any additional evidence that you want considered. If you feel that you will need more time than this, please inform us as soon as possible so that the schedule can be adjusted. You may bring any witnesses that you want to the hearing, however, the Veterans Administration cannot pay for any expenses in conjunction with this hearing.

Unless you appear on the scheduled date or let us know prior to that time that another date will be more suitable, we will process your appeal without further delay.

Visitor parking is available in the Federal Building without charge. The entrance to the parking area is from Church Street and signs are posted in the building to direct you to the visitor parking area.

Additional information regarding the conduct of the hearing is provided in the attached document.

Sincerely yours,

J. H. BARTRUFF
Adjudication Officer

Enclosure
VA FORM 21-0508

______

______

"America is #1—Thanks to our Veterans"

Cleveland Letters

May 03, 1989

Mr. 325/21
C

Cincinnati, Oh 45223

The hearing you have requested in connection with your appeal will be held on 06-01-89 at 0130PM. Please report one half hour prior to the time of your hearing to allow for preparation time. This will give you an opportunity to discuss your claim, if you so desire, prior to the actual time of the hearing.

Please report to the secretary in Room 1051, Veterans Services Division, of the Anthony J. Celebrezze Federal Building, 1240 East Ninth Street, Cleveland, OH.

We have reserved one hour for your hearing. You may use less time if you wish. If you will need more than one hour, please tell us approximately how much more time you will need and we will reschedule your hearing.

We have enclosed Form 21-0508. It is a brief introduction to our hearing procedures. Please note that the Department of Veterans Affairs cannot pay the cost of transportation or any other expenses you may have in connection with the hearing.

If you are unable to appear on the scheduled date or time, you should notify this office either by letter or telephone call between 8:00 a.m. and 4:00 p.m. at (216)522-3225.

B. WEISBERG
Adjudication Officer

Enclosure

cc: C-file
21

May 03, 1989

Mr.

Youngstown, Ohio 44509

325/21
C

The hearing you have requested in connection with your appeal will be held on 06-09-89 at 0930AM. Please report one half hour prior to the time of your hearing to allow for preparation time.

You should report to the Disabled American Veterans in Room 781. We are notifying them of your hearing since it is your privilege to have them assist you in the presentation of your case. You should bring with you any evidence you wish to offer in support of your claim.

We have reserved one hour for your hearing. You may use less time if you wish. If you will need more than one hour, please tell us approximately how much more time you will need and we will reschedule your hearing.

We have enclosed Form 21-0508. It is a brief introduction to our hearing procedures. Please note that the Department of Veterans Affairs cannot pay the cost of transportation or any other expenses you may have in connection with the hearing.

If you are unable to appear on the scheduled date or time, you should notify this office either by letter or telephone call between 8:00 a.m. and 4:00 p.m. at (216) 522-3225.

B. WEISBERG
Adjudication Officer

Enclosure:

cc: C-file
21
DAV

May 04, 1989

Mr.

Boardman, Oh 44512

325/21
CSS

The hearing you have requested in connection with your appeal will be held on 06-14-89 at 1030AM. Please report one half hour prior to the time of your hearing to allow for preparation time.

You should report to Room 1051. You should bring with you any evidence you wish to offer in support of your claim.

You have designated a private attorney as your accredited representative. We are forwarding a copy of this letter to your attorney.

We have reserved one hour for your hearing. You may use less time if you wish. If you will need more than one hour, please tell us approximately how much more time you will need and we will reschedule your hearing.

We have enclosed Form 21-0508. It is a brief introduction to our hearing procedures. Please note that the Department of Veterans Affairs cannot pay the cost of transportation or any other expenses you may have in connection with the hearing.

If you are unable to appear on the scheduled date or time, you should notify this office either by letter or telephone call between 8:00 a.m. and 4:00 p.m. at (216)522-3225.

B. WEISBERG
Adjudication Officer

Enclosure:

cc: C-file
21

STATEMENT OF

ROBERT D. MANHAN, SPECIAL ASSISTANT
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

WITH RESPECT TO

THE PERFORMANCE OF THE VETERANS BENEFITS ADMINISTRATION (VBA) REGIONAL OFFICE ADJUDICATION ACTIVITY AS IT EFFECTS TIMELINESS AND QUALITY OF PROCESSING CLAIMS FOR COMPENSATION AND THE EFFECTS OF THE HEARING OFFICER PROGRAM

WASHINGTON, D. C. MAY 9, 1989

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to appear before this Subcommittee regarding such an important and timely topic. The Veterans Benefits Administration, hereafter referred to as VBA, administers most of the Department of Veterans Affairs non-medical benefits and services to veterans and their dependents. It does this through a chain of 58 regional offices as well as nationwide toll-free telephone lines. The benefits it administers include compensation for service-connected disabilities; pensions for low-income, aged, or disabled veterans; vocational rehabilitation; education and training support; home loan guaranties; and life insurance. Needless to say the VFW's 2.9 million member strong organization, to include our Ladies Auxiliary, is a user of this very important entitlement service. Equally significant is the fact the VFW works through a number of its own Veterans Service Officers (VSOs) throughout the United States, the Commonwealth of Puerto Rico, the Pacific Area and Europe. Their primary mission is to assist any veteran, his spouse, child(ren) or widow to properly file a claim with the VA. The clientele we serve are not required to be members of our organization. The point being made is that the VFW VSO network is a very large and deeply involved user of all the VBA programs. Accordingly, we do have a wealth of experience regarding the issues under consideration.

With this as background information, the VFW discussed the key topics presented by this Subcommittee with 30 service officers last week as part of a proficiency training session. Our VSOs came from as far north as Anchorage, Alaska, and as far south as New Orleans, Louisiana. Both coasts were well represented as were the Veterans Administration Regional Offices (VARO) in the Rust Belt, the Sun Belt, the Oil Belt, as well as the inner cities of Chicago, St. Louis and Cleveland.

The first question addressed was the issue of timeliness We used the VA's own standards that call for action on 50 percent of original compensation claims to be completed within two months and for 75 percent to be completed within three months. In the vast majority of our cases, these time frames were not being met. The single significant reason cited for this delay was either a lack of personnel and/or a lack of adequately trained personnel.

The second question addressed was the quality of decisions rendered. There was unanimous agreement that adjudication personnel were handing down proper and equitable decisions in the majority of the cases; about three out of every four the VFW processed. This issue was discussed in great detail.

In sum there was general agreement that the middle level managers within the agency are very competent, very dedicated and very much overworked. But as a result of large workloads their morale is being adversely affected by trying to do too much, for too long, with too few qualified staffers. The VSO's single sharpest criticism regarded military documents. Either agency personnel didn't understand the available military information or know how to properly obtain needed additional military evidence. The VFW believes this problem could be solved by having former servicemen and servicewomen actively recruited for employment within the VBA's areas of compensation for service-connected disabilities and within the rehabilitation and training support activities.

The third question addressed the single Hearing Officer program. From the VFW's point of view this is a successful achievement; a really bright innovation! We now pose two questions for consideration based on our perception of this effort. First, can the Hearing Officer concept be expanded? If so we suggest special emphasis be placed on those VAROs that have any or all of the following conditions: too large a case backlog; too few qualified/trained personnel; and/or; too long a turn around time for whatever reason.

A case in point is Fargo, North Dakota, where one adjudicator also serves as a VA union president. According to our VSO in Fargo, the adjudicator is available only about 20 percent of the time for "veteran" work. This may or may not be a unique situation. However, in all fairness to Fargo, we also point out the fact that their quality of decisions rendered is extremely good.

Second, can this single officer hearing concept or a modification of it become a permanent quality control element within the system? This suggestion is based on the fact that of the almost 6400 cases reviewed by the Hearing Officers approximately 2800, or about 44 percent, were returned to the VARO staff for basic facts/documentation dealing with the claim. That is, these cases needed further development before they could be submitted in the first place for a proper decision.

The fourth and last Subcommittee question deals with suggested managerial initiatives VBA ought to be considering to improve its overall efficiency with regard to veterans' claims. We will first identify the problems we found and then suggest solutions.

A recap of the information provided by our VSOs outlines three principle shortfalls across the entire system. They are: insufficient staffing by full-time employees, hereafter referred to as FTEE; inadequate professional training, and; increasingly long response times. These factors introduce the three additional problems of: increasing workloads; larger backlog of cases, and; decreasing individual morale that adversely affects overall work section performance. This problem mix varies from station to station, of course. Some VAROs do have adequate staffing but because of their workload they are unable to properly train their own staff while other VAROs have a well-trained staff but not enough personnel to handle the workload. In our judgment, VBA's overall performance receives a rating of only "Fair to Poor." This is a sad comment especially when we also recall the total number of VBA personnel currently within the system; their collective years of experience and their total payroll costs each month to the U.S. Government. As is always the case, the only real victims of a bureaucracy's problems are the users it is intended to serve. In this case veterans, their dependents and an increasing number of widows. Simply stated, no veteran or widow is equitably served if he or she must wait more than three months for a simple decision that involves money. Nor is anyone properly treated when a claim is initially denied only to have it approved eight to ten months or even a year or more later at the Board of Veterans Appeals, often based on the same documentation that was available at the VARO in the first place. And unfortunately, this does happen every workday. Again referring back to the 6400 cases worked by the Hearing

Officers some 949 or 14 percent that had been denied by the VAROs were "allowed" or approved for benefit(s) upon review. During almost this same period of time the Board of Veterans Appeals allowed an additional 1128 cases and had another 675 cases that were returned to the VAROs for further development subsequently approved at the VARO for the benefits requested. We simply must do a better job. And that leads to our recommendations that VBA now make necessary plans with the associated budgetary costs to:

A. Reduce their system-wide backlog of cases to their October 1987 level by October 1990. The previously mentioned standards of timeliness should be the baseline and quality control should be improved by at least a factor of two, i.e. reduce the remand and appeal rate by half.

B. Hire new FTEEs gradually over an 18-24 month period of time so they can be better trained and smoothly assimilated into the system.

C. Standardize training at a centralized level or at least at regional level. The intent is to improve the overall training quality while taking the "teaching" burden off the VARO working section chiefs.

D. Streamline work processing by automating labor-intense manual functions and improve the VBA ADP systems to include computer-telephonic access to at least the local medical center (VAMC) records. Two of these commercial "computer-phone" systems are Videotex and Call Path.

E. Last, Congress should review the progress in accomplishing these goals within the normal oversight process. This is necessary so that as problems arise, as they will, corrective action(s) can be addressed before a subsequent budget cycle begins.

The VFW firmly believes the budget process is the ultimate means to restore adequate services to veterans, their families and widows. And we offer the above recommendations with the intention of assisting VBA to obtain the proper level of funding they need to do the job right the first time. We also firmly believe the veteran community deserves the very best in government services. We have defended our country; we have earned the entitlements we now seek; as productive workers, we pay the taxes that support the system, and; as involved citizens, we vote for the policies and people who share our concerns and values.

The VFW's overall intention, as always, is to be as constructive as possible. Therefore, we remind all interested parties that we, in conjunction with the American Veterans of World War II, Korea and Vietnam, the Disabled American Veterans and the Paralyzed Veterans of America expended a great deal of effort, thought and money to publish our Independent FY 1990 DVA Budget. Collectively, we have already addressed in some detail using 17 pages of text, charts and graphs most, if not all, of the problems discussed here today. We encourage the members of this Subcommittee to review this publication in conjunction with our submitted testimony.

Thank you Mr. Chairman. It will be my pleasure to respond to any questions you and other members may have.

Statement of

The American Legion

1608 K STREET, N. W.
WASHINGTON, D. C. 20006

by

PHILIP R. WILKERSON, ASSISTANT DIRECTOR
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THE AMERICAN LEGION

before the

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

on

OPERATIONS OF THE VETERANS BENEFITS ADMINISTRATION

May 9, 1989

STATEMENT OF PHILIP R. WILKERSON, ASSISTANT DIRECTOR
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Mr. Chairman and Members of the Subcommittee:

The American Legion appreciates the opportunity to present its views on the operations of the Veterans Benefits Administration with respect to the quality, timeliness, and due process in the adjudication of veterans' benefit claims.

Over the years, Congress has established programs of direct benefits to veterans, their dependents and survivors, under title 38, United States Code. These programs in FY 1989 will provide statutory benefits, in excess of $16 billion. Their purpose is to provide compensation for service related disability and death, nonservice-connected disability and death pension benefits, vocational rehabilitation and educational assistance allowances, and burial benefits. The effectiveness of the Veterans Benefits Administration's benefit delivery program can be measured by the factors of timeliness in the processing of claims, and the quality of the decisions on the individual claims based upon the Administration's quality review program.

The American Legion has expressed its views to the concerned Committees of Congress on numerous occasions regarding the deterioration in both the quality of decisions on benefit claims and the lack of timely processing of claims. Fundamental to this concern is the fact that VA beneficiaries are, in the main, either service disabled, their dependents or survivors, or the aged and infirmed seeking pension benefits. All of these beneficiaries are very much in need of the services and benefits being claimed, many on an urgent basis, to maintain themselves and their families. The American Legion believes very strongly that they are entitled to and deserving of a system in which their claims will be adjudicated in a full, fair, and compassionate manner without undue delay. It is, therefore, essential that the Veterans Benefits Administration have the necessary staff and resources to render decisions that are consistent with the provisions of the law, regulation and agency policy and to make payment of any benefits due promptly, in order to achieve the measure of financial compensation and income support intended by Congress.

This Subcommittee considered the problems of timeliness and quality in benefit claims processing and the Veterans Benefits Administration efforts to address them in the oversight hearing conducted in May 1988. Mr. Chairman, we wish to commend you for holding this timely hearing to reexamine the Administration's activities as they relate to the claims adjudication process in the regional offices.

Within the Veterans Benefits Administration, the Compensation, Pension and Education Service is responsible for the administration of the various programs of direct benefits for veterans, dependents and survivors through the operation of 59 regional offices located in the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Philippines. The ability of adjudication personnel in these offices to handle existing and projected caseloads is contingent upon both the level of staffing and automatic data processing resources of the TARGET system. It must be pointed out the staffing in these offices has undergone consistent and persistent reductions over the past ten years, dropping from 6,004 FTEE in 1978 to 3,637 FTEE in 1988. In 1989, this is projected to decrease to 3,600 FTEE and to 3,593 FTEE under the FY 1990 budget. The cited basis for reduced employment levels has been declining workloads and savings attributable to computer modernization initiatives, according to the Office of Management and Budget.

Mr. Chairman, The American Legion continues to be supportive of economy of personnel in the operations of the Federal workforce to ensure maximum productivity. However, if the Veterans Benefits Administration is to fulfill its responsibility to this nation's veterans and their families by providing timely and accurate action on their claim for benefits, it must be recognized that despite the projections of productivity improvements and declining workloads there is ample evidence of mounting backlogs of cases in the regional offices, increasing claims processing times, and an increasing number of errors in actions taken in the adjudication and processing of their claims. These problems have been repeatedly highlighted in the Department's budget request. However, the proposed reduced funding and staffing levels were stated to be sufficient to affect a reversal in these trends. In the opinion of The American Legion, without additional resources in terms of personnel and modernization of the TARGET ADP system, little progress can be expected toward achieving the Department's stated goals.

As previously noted, staffing in the claims processing activities of the regional offices has declined approximately 41% since 1978, while the workload of new claims received in these offices has not undergone a similar decline. Not only have there been fewer total personnel to perform the essential work required, but the cumulative effect of mandated staffing reductions has caused many stations to lose large numbers of experienced, trained, and highly productive personnel from the adjudication, administrative and support divisions. Overall productivity has also been impacted by the fact that veterans' claims have become increasingly complex due in part to such issues as the pathology of post-traumatic stress disorder, the effects of exposure to Agent Orange and ionizing radiation, for example. The more complex the issue involved in the claim, the more manhours are required to fully develop and properly adjudicate each case. Recently, additional time consuming procedures have been instituted by VA to ensure claimants' due process rights, including the establishment of the Hearing Officer program to conduct personal hearings at the regional office level. Severe cuts in personnel providing support services to the adjudication division has further contributed to the decline in claims processing productivity.

In FY 1988, a total of over 4 million separate claims actions were reported. This involved processing of original claims for service-connected disability compensation, dependency and indemnity compensation, nonservice-connected disability and death pension, vocational rehabilitation and educational assistance, burial and plot allowances, and accrued benefits, as well as adjustments to running awards related to dependency, income, or hospital admission, reopened claims, and ancillary adjudicative actions. The workload level in the current fiscal year and for FY 1990 is expected to remain at the same relative level. The Department has acknowledged that it cannot begin to make any major improvement in timeliness until there is a substantial improvement in productivity. Over the last few years there has been a steady decline in productivity with a reported increasing number of "marginally efficient stations." Of the 28 standards in the Compensation and Pension Timeliness Measurement System, it was reported that as of January 31, 1988, an acceptable level of timeliness was being met in only 5 of the 28 categories. In 1986 by comparison, acceptable levels of timeliness were being met or exceeded in 18 of the 28 categories.

The impact of the persistent decline in overall staffing levels in the adjudication division in the regional offices together with the loss of many experienced and trained adjudicators is graphically illustrated by the continued pattern of increasing processing times for almost all categories of benefit claims. According to available data, the regional offices in FY 1986 were able to complete processing in 34.9% of disability compensation claims in 90 days or less. In FY 1987, 30.9%, and in FY 1988, 27.5%. As of the end of March 1989, the figure was only 26.9%. For dependency and indemnity compensation claims, in FY 1986 the regional offices were able to complete processing of 64.6% of the cases in 90 days or less. In FY 1987, this had dropped to 60.1% and in FY 1988, it had slipped to 57.5%. As of March 1989, the number was down to 56.7%. After a steady decline over this same period, the processing of nonservice-connected disability pension claims showed a slight recent improvement. In 1986, action was completed on 54.9% of the cases and in FY 1987, 53%. In FY 1988, it was 49.9% and to date in the current fiscal year 51.6%. Death pension claims processing also showed a slight improvement in the first 6 months of FY 1989. In FY 1986, 79.5% were processed within the 90 day time frame. In FY 1987, it was only 75.6% and in FY 1988, 69.5%. Thus far in FY 1989 it was 70.8%.

Upon reviewing the data for the same categories of cases completed within a six month timeframe, the percentages continue to decline which means that benefit payments are further delayed and the backlog increases. In FY 1986, the regional offices were able to complete 79.6% of disability compensation claims in six months or less. In FY 1987, it was 74.6% and in FY 1988, it had dropped to 70.3%. As of the end of March 1989, the percentage was only 69.3%. For dependency and indemnity compensation claims in FY 1986, the percentage completed was 91.6%. In FY 1987,it was down to 89.2% and in FY 1988, it had slipped to 88.3%. As of March 1989, it stood at 87.6%. For nonservice-connected disability pension in FY 1986, the percentage completed was 90.3%. In FY 1987,it was 87.8%. In FY 1988, 86.1% and as of March 1989 only 85.9%. Death Pension claims went from 97.2% completed in FY 1986 to 95.6% in FY 1987. In FY 1988, it was 94.2% and as of March 1989, there was an improvement of one tenth of one percent to 94.3%.

It should be noted that while there has been a significant deterioration in the timeliness for the processing of compensation and pension claims, there has been only a marginal decline in the processing times for educational assistance claims including vocational rehabilitation during the last two and one half years. According to VA, the quality of education claims processing has slightly improved. As the Vietnam Era GI Bill terminates at the end of 1989, the reduced caseload in that program will be more than offset by the growing activity in the Montgomery GI Bill educational assistance programs. The number of trainees is expected to steadily increase over the next several years. Currently, the St. Louis VA regional office is processing all Chapter 30 education benefit claims under a test program using optical disk technology. The Department is also evaluating the impact of manual processing of Chapter 30 cases at three other regional offices which may affect other adjudication activities at these stations.

We also believe the adverse effects of continued staffing cuts and loss of experienced and trained personnel on the quality of decisions rendered on benefit claims are clearly evident in the reported steady increase in the error rates over the last two and one half years. What is particularly disturbing to us is the increasing number of substantive errors being found in the course of the Department's quality review process. A substantive error is one involving an incorrect or erroneous decision on an issue of entitlement, eligibility, or monetary benefits, which if uncorrected results in, or would result in the improper grant or denial of benefits, including the right to constitutional due process. The American Legion believes very strongly not only that claims must be processed in a timely manner, but it is equally important to the claimant and VA that decisions be proper and correct.

Mr. Chairman, the Veterans Benefits Administration is clearly faced with a number of serious long-term problems, as described. Various efforts are underway which in time are projected to stem the further deterioration in timeliness and quality in the claims process and eventually allow progress toward improving the overall quality of service provided.

One initiative which is most likely to have the most immediate and far reaching impact on both quality and production is to establish the adjudication academy to train adjudication personnel. This should, in our estimation, serve to address many of the problems created by the loss of the "Class of '46." According to the Department's own data, currently about 20% of the adjudicators are trainees as compared with only 12.4% two years ago. The number of trainee development clerks is estimated to be even higher. Productivity in the regional offices is also expected to be favorably affected by having the training of new adjudicators at a centralized location rather than utilizing senior adjudicators in each station.

We have also been asked to comment upon the recent implementation of the Hearing Officer program. This program was developed by the Department of Veterans Benefits in response to the consent decree issued in the litigation Semanchuk v. Walters and became operational on October 1, 1988. Its purpose is to improve the due process procedure for personal hearings at the regional office level by authorizing 36 Hearing Officers to conduct all such hearings rather than the local rating boards. The Hearing Officer has the same decision-making authority as a rating board and can affirm, reverse, or modify a previous decision of the rating board, and undertake additional development action on a claim. Based upon years of experience in representing veterans and other claimants in personal hearings before local rating boards, The American Legion must conclude that oftentimes these hearings were a waste of time both for the claimant and the rating board members present. The claimant was clearly at a disadvantage by virtue of the fact that this same board had already denied the claim. In some instances, the conduct of the hearing was adversarial and decidedly less than full, fair, or impartial.

Based upon reports from our service officers in the field, it appears that many of the problems associated with hearings before the rating board have been overcome. As with any new program, some changes have been necessitated. Due to caseloads and travel schedules at several stations, 3 additional Hearing Officers have been assigned to the program with temporary Hearing Officers designated at 4 other stations.

The changes in the hearing procedure are both a matter of substance and perception. Claimants have felt the Hearing Officer will be more empathetic in considering a case, rather than hostile or adversarial. They also feel they are more likely to receive a full, fair, and impartial hearing, particularly since that individual has not been involved in previously denying the claim. It is reported that Hearing Officers appear to be very much concerned with the development of necessary evidence in a claim and action is taken to obtain additional clarifying or supporting evidence or examinations.

A number of favorable comments received indicate that the decisions provided claimants have been more informative and understandable than either the initial denial notice or even the Statement of the Case. This is an important point since it may directly affect the claimant's decision of whether or not to pursue the claim on to the Board of Veterans Appeals. In this regard, we note the fact that should the claimant decide on pursuing an appeal, the record will include a written transcript of the personal hearing which will enhance the consideration of the case at the appellate level.

It is expected that additional processing time will be required in those claims involving personal hearings as well as to ensure compliance with the due process requirements of PL 100-687, "The Veterans' Judicial Review Act/Veterans' Benefits Improvement Act of 1988", thereby, contributing to some degree to the overall existing backlog of cases. It is also noted that productivity will be affected to some extent by the fact that staffing for the Hearing Officer positions was drawn from current adjudication personnel, with no additional replacement staffing provided. The work previously performed by these individuals is to be assumed by rating board members who are no longer required to conduct or participate in personal hearings.

We find the overall results of the Hearing Officer program to be very positive and are supportive of the further development of the program where needed. The additional processing time associated with such personal hearings is a small price for the claimant to pay for this significant improvement in due process.

Mr. Chairman, your letter of invitation also included a request for discussion of management initiatives which we feel might help improve the efficiency of claims processing activities. We recognize that many of the long-standing problems discussed earlier in our statement are the culmination of recurrent budget constraints on regional office staffing and under the Department's "bare bones" approach to modernization of the TARGET system, no major improvements in ADP support to adjudication functions is likely in the near future. In the absence of any substantial changes in staffing or the availability of newer and more powerful ADP equipment, consideration might be given to possible changes in the following areas.

Piecemeal or unnecessary development of a case slows down the entire adjudicative process. Improved supervision, training, and quality control checks are needed to minimize this problem.

One of the chronic bottlenecks in the processing of many disability claims is the scheduling and completion of required medical examinations by the local VA medical center. In our opinion, further efforts must be made to improve the working relationship between the regional office and VA medical centers. The examination phase of case development is critical as it affects both timeliness and quality of rating decisions. Not only should more attention be given toward prompt scheduling, but more importantly, ensuring the examination is conducted by competent, trained medical personnel, according to the Physicians' Guide, and that the examination report is in fact "Adequate for Rating Purposes." This report must also be completed and returned to the regional office on a more timely basis.

Problems in the administrative and support services division also have a direct impact on productivity and timeliness in the adjudication division, even before a case reaches an adjudicator or rating board for a final decision. Claims folders are often temporarily "missing" having been misfiled, misplaced, or erroneously sent to another station. Incoming mail which needs to be associated with the individual's claims file for action can be delayed or lost. Procedures for the handling and control of mail and files need to be improved to prevent unnecessary delays.

We also believe that an improvement in computer-generated correspondence from the regional office to the claimant is necessary. These types of letters are often vague or confusing and not sufficiently informative. They indirectly create additional workload because of inquiries received from claimants and may be a factor in a claimant's decision to initiate appellate action in the case.

Mr. Chairman, that completes our Statement.

PVA
PARALYZED VETERANS
OF AMERICA
Chartered by the Congress
of the United States

STATEMENT OF
JOHN C. BOLLINGER, ASSOCIATE LEGISLATIVE DIRECTOR
PARALYZED VETERANS OF AMERICA
BEFORE THE
SUBCOMMITTEE ON COMPENSATION, PENSION, AND INSURANCE
OF THE
HOUSE COMMITTEE ON VETERANS AFFAIRS
CONCERNING
THE TIMELINESS AND QUALITY OF PROCESSING CLAIMS;
THE HEARING OFFICER PROGRAM;
AND THE GENERAL OPERATION OF
THE VETERANS BENEFITS ADMINISTRATION
MAY 9, 1989

Mr. Chairman and Members of the Subcommittee, it is a pleasure for me to be here today. On behalf of the Paralyzed Veterans of America, I wish to thank you for conducting this important oversight hearing regarding the operation of the Veterans Benefits Administration (VBA). I appreciate the opportunity to express our concerns regarding the effectiveness and efficiency of this critical operation within the Department of Veterans Affairs. I will focus my comments today on the current performance of VBA's adjudication process and the hearing officer program. I also wish to provide some general comments concerning managerial initiatives within the Administration.

The ability of the Compensation and Pension Service to provide disability benefits to our Nation's veterans in a timely and accurate fashion represents, in our view, one of the most critical elements in the mission of VBA. One's legal entitlement to these benefits is meaningless if the benefit can not be delivered. For those eligible beneficiaries, whether they be service-connected or nonservice-connected veterans, DIC or pension widows, surviving parents or children, it is readily apparent that the Administration's ability to deliver the check is as important as the public law that granted the eligibility in the first place.

FUNDING AND STAFFING LEVELS

Mr. Chairman, the Independent Budget for Fiscal Year 1990, which was submitted to the Congress earlier this year, describes in detail the current problems of the Compensation and Pension Service particularly in regard to staffing levels and the effects of an inadequate General Operating Expenses (GOE) account. That document also describes and analyzes the growing backlog of compensation and pension claims which have accumulated in the Administration. It is not our purpose, therefore, to reiterate those statistics today. The Independent Budget is a matter of record and we continue to concur with the assessments and recommendations provided in that document.

It is, however, of utmost importance that we emphasize the vital link between the GOE account and VBA's ability to carry out the law that mandates delivery of the numerous entitlement programs under the Administration's jurisdiction. Without adequate staffing levels, the Compensation and Pension Service will be unable to accomplish its mission. A decade of neglect and dwindling VBA staff has borne out the unfortunate consequences of shortsighted budget cuts imposed by the Office of Management and Budget.

As Congressional Budget and Appropriations Committees determine the fate of the FY 1989 supplemental appropriation and FY 1990 budget, we urge all Members of Congress to remember those individuals who find themselves beneficiaries of DVA disability compensation and pension. Although improved managerial techniques and initiatives will serve the veteran well, it is absolutely essential that sufficient funding be afforded the Administration if they are to reverse the trend of increasing C&P backlogs, unacceptable error rates, and demoralized and overworked staff.

In assessing the overall problems facing C&P Service today, one must realize that there is a critical interaction between the various service divisions within DVA. Declining numbers of Veterans Benefits Counselors, adjudication personnel, field examiners, compliance surveyors, and others, collectively, affect one another in various ways. Due to C&P Service's reliance on all of these services, the overall decline in VBA staffing has been reflected, most adversely, by those individuals responsible for making rating decisions and writing disability awards.

The Administration has recommended further reductions in VBA staffing for FY 1990. From an already eroded FTEE level that has been reduced by 25 percent in the last decade, VBA is now being asked to absorb an additional loss of 323 personnel from their workforce. Unless adequate funding and sufficient

FTEE are restored, VBA and C&P Service will crumble under the weight of pending claims and insurmountable backlogs which will quadruple in the next two years.

Equally critical is the need of a sufficient supplemental appropriation for FY 1989. Quite simply, VBA will be forced to employ some form of undesirable personnel action before the end of this fiscal year if adequate funds are not made available. Whether through reductions in force, hiring freezes, or furloughs, the Administration will be required to decrease its payroll obligation because funds are not presently available to pay existing staff. Unofficial estimates are that unless an adequate and timely supplemental appropriation is received, 7-day furloughs will be necessary across the board before the end of FY 1989.

Mr. Chairman, one of the attractions of employment in the Government is that it offers a reasonably comfortable degree of security. We have spoken to employees of VBA and we can assure you that moral is extremely low. Not only has security and pay been threatened for existing personnel, but the future attractiveness of working for the Government has been seriously undermined. This cycle will undoubtedly have long term negative effects on the Administration's ability to hire competent and capable employees.

Other than sufficient funding levels for VBA, the efficiency and accuracy with which the Administration is able to deliver benefits will ultimately be determined by a variety of factors whose interrelationship must be successfully controlled and influenced by management. Although adequate funding alone is not a panacea for the crisis situation in which C&P Service finds itself, it is the driving force behind these additional factors. Most significant are (1) employee training programs, (2) automated data processing, (3) the ability of the Veterans Health Services and Research Administration (VHS&RA) to respond to C&P exams and exchange information with VBA, (4) the ability of VBA to use reliable and realistic quality control of claims, and (5) the ability of VBA to maximize the use of the hearing officer program.

TRAINING PROGRAMS

As the number of trained and experienced staff has declined over the past decade, critical training programs for new personnel have also suffered. Declining numbers of journeyman adjudicators continue to be responsible for local, ad hoc training of new employees. Those who are most experienced must therefore divide their time between developing disability claims and the classroom. The VBA adjudicator's trade of interpreting medical exams, degree of impairment, a person's ability to work, and applying rating schedules is a complex and unique profession. Adequate training programs and sufficient staff to implement such instructive programs are essential to the mission of C&P Service.

There is no question that centralized, formal training would result in more consistent and accurate interpretations of DVA rules, regulations, and rating schedules. If such training were implemented, journeymen adjudicators would not be interrupted from their principal tasks of rating claims and new employees would become fully productive sooner.

We continue to recommend a centralized training unit for VBA employees. We further believe that the Administration's original proposal in the FY 1990 budget to establish an adjudication academy is an encouraging step in keeping with the Independent Budget's recommendations.

AUTOMATED DATA PROCESSING (ADP)

The ability of VBA to deliver prompt and efficient service is tied directly to the Administration's ADP capabilities. With the exception of changes in leadership and managerial "fine tuning" of modernization plans, VBA will be unable to implement the sophisticated ADP standards so essential to their operation unless sufficient funding is made available.

Although the evolution of the Administration's approach to modernization has been marked by intra-agency clashes involving program responsibilities and philosophical differences, VBA has made measurable progress toward ADP improvement. Major short term programs and innovative, legitimate, high priority and high profile programs remain in place and, in some cases, are ready to go. Model stations have been established as testing bases and are operating successfully. We were most impressed by the operation of the model station "Alpha Site" at the Philadelphia VARO & Insurance Center. If these and similar programs are permitted to flounder in an indecisive funding stalemate, the ability of the C&P Service to deliver quality decisions and timely benefits will be further eroded.

Although the present Target System has served the Administration well, it is very limited in its capabilities and is too rigid to accommodate the variety of functions needed by C&P personnel to serve veterans and their dependents.

In most cases, veterans are given only limited information when they receive award letters. Information is not provided concerning the DVA's decision making process, what evidence was considered, and other important pieces of information which would give the veteran a full understanding of the decision. Obviously, such information is essential in helping a veteran determine whether or not he should appeal the decision. Improved ADP capabilities will provide the necessary flexibility C&P Service needs to give claimants complete and accurate decisions that are not limited to standardized paragraphs in the Target System program.

PVA believes it is imperative that the ADP capabilities of VBA and C&P Service be given a high priority. We also encourage the HCVA to maintain thorough oversight of this critical endeavor.

C&P/VHS&RA EXCHANGE OF INFORMATION

We realize that the issue of data exchange between C&P Service and DVA Medical Centers is not entirely within the domain of this Subcommittee. It must be emphasized, however, that C&P adjudicators have no automated access to medical center data needed to process claims. Until this piece of the modernization puzzle is in place, such access will continue to be manually accomplished. This manual process exacerbates the lengthy delay in scheduling C&P exams at medical centers. Often the medical centers fail to comply with instructions from the Regional Offices and further delays occur when records are returned. The ultimate loser, of course, is the veteran who must tolerate unacceptable delays in benefit delivery.

QUALITY CONTROL OF CLAIMS

DVA's quality control system is in place to identify errors in the adjudication process and assist management in determining which areas need corrective action. PVA is concerned that the current system does not provide reliable statistics on which management can act. It is our understanding that the current system can neither estimate an error rate for completed claims nor determine error rates for individual programs. Without such information we cannot understand how management even begins to assess the variety of problems that plague the adjudication process. Steps must be taken by VBA management to restructure the quality control system so that it represents a true picture of the claims processing procedure.

PVA TIMELINESS SURVEY

As a result of your letter of invitation to testify at this hearing, PVA has completed our own timeliness survey for C&P services. During the last week of April 1989, our Service Officers from across the nation were asked to submit their findings concerning the length of time it took to process C&P claims in their Regional Offices. They were also asked to comment on the hearing officer program.

We found that although most compensation claims were completed between 130 and 180 days (this is similar to our findings from last year), several Regional Offices reported average compensation claims taking in excess of 200 days. Many factors can cause additional delays before the veteran actually learns the results of the final DVA decision. In the event the decision is negative and the veteran decides that a hearing before a Hearing Officer is in order, our Service Officers found that claimants must wait an average of 66 days to present their cases. In some extreme cases, the wait was 130 days.

THE HEARING OFFICER PROGRAM

For the most part, PVA Service Officers responded favorably to the Hearing Officer program. With the exception of the delays discussed above, it was generally felt that these hearings were held in the best interest of the veteran. In some instances, it was felt that cases were actually better developed by adjudication personnel in preparation for these hearings. Hearing Officers were reported to be generally knowledgeable and professional in their duties.

The following comments from PVA Service Officers are typical of the survey:

"The Hearing Officer program is a much welcomed program in Denver due to the fact that it does not tie up rating board personnel. The number of hearing slots designated for PVA are quite adequate. Delays in receiving decisions are at times a major problem."

"The Hearing Officer program has worked very well in St. Petersburg Regional Office. The two officers assigned to the position are well versed in VA laws and regulations and the appeals process. The scheduling time for a hearing is approximately 93 days."

"In the short time since the program began, we have seen a definite improvement in certain areas such as obtaining further examinations when necessary."

"The Hearing Officer has been present at this Regional Office since November 1988. The major problem is delays in scheduling hearings. Hearings are now being scheduled for the month of September."

In addition to these comments, we wish to point out one glaring statistic that was provided by the DVA on their cumulative report for FY 1989 concerning the program. We are quite concerned that there appears to be a general lack of hearings at non-HUB stations. It is apparent that those veterans who live near a HUB station represent, for some reason, a notably higher percentage of veterans taking advantage of the Hearing Officer program. We suggest that the DVA address this issue and offer an explanation.

In summary, PVA believes the program has been very successful so far. The obvious drawback is insufficient funds necessary to hire adequate FTEE to staff these important positions. Major delays will continue to occur without sufficient personnel to make the program work.

MISCELLANEOUS CONCERNS

We wish to express several additional concerns regarding areas that affect timeliness and quality of claims processing.

1. In many cases, C&P Service does not properly develop compensation and pension claims. We believe this is due to insufficiently trained personnel and C&P Service's desire to expedite the decision making process. Our Service Officers have confirmed that critical records are too often not included in the C-file when rating decisions are made.

2. In some cases, PVA Service Officers have not been advised of decisions made by rating boards. In other cases, our Service Representatives have not been sent development letters. PVA and other VSO's are in a position to greatly assist in the gathering and development of claims, however, without development requests from the DVA, we obviously are unaware of what information C&P Service needs and are unable to help.

3. We have been advised that Adjudication Procedural Manuals are very difficult to understand and use. Often out-of-date and cumbersome in organization, the manuals are apparently avoided in lieu of verbal interpretations from co-workers.

A final comment: There is no question that health care for our Nation's veterans represents the highest priority when addressing the budgetary needs of the Department of Veterans Affairs. We must be cautious, however, that in our attempts to restore adequate health care to our DVA Medical Facilities, we do not lose sight of the demands that have been placed on VBA. VBA's GOE shortfalls are realistic and they are taking a heavy toll on both VBA personnel and the veterans which VBA serves. We urge this Subcommittee and the Congress not too permit this important benefit delivery system to decline any further.

That concludes my testimony. I will be pleased to answer any questions you might have.

STATEMENT BEFORE THE SUBCOMMITTEE
ON COMPENSATION, PENSION AND INSURANCE
OF THE
HOUSE COMMITTEE ON VETERANS' AFFAIRS

BY

ALBERT J. BLAND, PAST NATIONAL COMMANDER
CHAIRMAN, LEGISLATIVE COMMITTEE
ACCOMPANIED BY
CHARLES M. WILLIAMS
EXECUTIVE DIRECTOR
AMERICAN EX-PRISONERS OF WAR

FOR THE
OVERSIGHT HEARING ON THE OPERATIONS OF THE
VETERANS BENEFITS ADMINISTRATION
DEPARTMENT OF VETERAN AFFAIRS

WASHINGTON, DC MAY 9, 1989

PREPARED BY
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Mr. Chairman and Members of the Sub-Committee

We appreciate the opportunity to again come before this committee and express the views of the American Ex-Prisoners of War concerning the operations of the Veterans Benefits Administration.

In the past, our testimony has been blunt and it has been direct. It will be so again today. We use "POW" for former POW.

With the enactment of PL 99-576, which added frostbite and traumatic arthritis to the presumptive list, and PL 100-332, which added peptic ulcer disease, peripheral neuropathy and irritable bowel syndrome to that list, we had anticipated that those conditions would now be adjudicated in a fair and equitable manner. We regret to say this is not so, little has changed!

The intent of Congress was to assure that, regardless of the inadequacy of the service record, POWs who currently had such conditions (either properly diagnosed or with symptoms fully consistent with such a diagnosis) would have their claims favorably adjudicated in the absence of clearly rebuttable evidence to the contrary. While it is true that these enactments, of course, have helped many POWs, too many who meet the same criteria are still being denied service connection.

First, I would like to describe a recent example that is typical of what still happens all too often, and then I would like to offer an explanation as to why this state of affairs continues.

Here is the statement of a DVB adjudication officer denying service connection to a POW for irritable bowel syndrome and peripheral neuropathy. It is dated April 13, 1989—less than one month ago.

> "Service connection for irritable colon and peripheral neuropathy is denied because our records fail to show they were incurred in or aggravated by your service."

This statement does not indicate that the conditions were not present or were attributable to rebuttable evidence, only that evidence of records do not support a favorable finding.

Let us look at that record. Although BVA on February 16, 1988 denied service connection for a gastrointestinal condition, this was prior to PL 100-332. In that decision, the Board, nevertheless, stated:

> "The gastrointestinal series reveal prominent rugal folds which were felt to be indicative of chronic gastritis...An August, 1984 follow-up examination revealed an adenomatous polyp had been removed in May 1984 and no other gastrointestinal problems had been found. The biopsy was reported to show acute and chronic inflamation of the colon. The veteran was treated (by VA) for irritable bowel syndrome...A 1984 VA POW protocol examination concluded in relevant diagnoses of chronic gastritis...on February 1987 VA compensation examination...he complained of...irritable bowel. The diagnoses were consistent with the above symptomatolgy."

This veteran had been a POW for six months. During that relatively short period he lost 50% of his weight. The Germans, who rarely hospitalized any POW, did hospitalize this veteran for these symptoms and others associated with malnutrition.

There is much more supportive evidence both in the form of medical reports (all from VA) as well as a detailed statement from the veteran re chronic diarrhea and related gastrointestinal problems. I doubt that any fair-minded individual would feel there was no relationship between his persistent symptoms and residual gastrointestinal symptoms, including those consistent with irritable bowel syndrome.

Mr. Chairman, approximately 20,000 POWs have died since PL 97-37 was enacted less than ten years ago yet fewer than 50% are service connected for any condition though many have completed the protocol and/or sought service connection for conditions now classified as presumptive. The bottom line fact is DVB continues to adjudicate POW claims almost as if Congress had passed no legislation on their behalf.

Why should this situation continue? The answer can be found in the repeated testimony of VA spokesmen before House and Senate committees concerned with POW issues from 1980 to the present. Those officials have invariably taken the position—and so stated—that POW claims, with rare exceptions, always have been adjudicated in a fair and equitable manner, that additional legislation, to use their words, is "not necessary".

This position is stubbornly maintained despite all the evidence to the contrary. Evidence from their own records, from POW Advisory Committee investigations, from Congressional hearings and from other reputable sources.

Thus, the situation continues because DVB simply does not believe there is a real "problem". It follows that there is no real reason to make major changes. The only need is to mollify outside groups, including Congress, that "mistakenly" believe otherwise.

This attitude is the heart of the problem. It is true that general policy statements are issued from time to time but no explicit instructions that would permit adjudicators to really look at the whole picture and then evaluate POW claims more flexibly and more favorably.

We suggest that further evidence of this attitude is reflected in the failure of that division to obtain the data from the NAS Longitudinal Study of POW Morbidity promised to Congress and other concerned groups more than two years ago!

Nor has DVB seen fit to obtain supplementary information to find out what is really occurring in the adjudication of POW claims. Instead, DVB remains content with the SIRS reporting system which demonstrably obscures what is actually happening in this respect.

Field station adjudicators are, of course, well aware that Central Office has never acknowledged any serious deficiencies in the resolution of POW claims. As a result, these claims are essentially handled by adjudicators with meticulous reliance on longstanding procedures and practices regardless of their adverse effect on individual POW claims.

The hearing officers' training program now being implemented offers little hope of improving this situation in the absence of the genuine recognition by DVB officials that serious deficiencies have existed and are existing in the adjudication of POW claims. To date, those officials seem unable to recognize this fact.

These deficiencies do not reflect an indifference to the POW on the part of DVB, but a failure to adapt adjudication procedures to the very different problems posed by POW claims characteristically lacking in adequate service records and involving the longterm, often delayed,physical and psychological consequences of the brutal and inhumane captive experience.

Mr. Chairman, with the elevation of VA to a cabinet level department—and DVB from division to administration status—we hope that these deficiencies that have adversely affected POW claims for so long can at last be openly faced and critically reviewed. The rapidly diminishing POW population still very much needs fair and equitable resolution of their claims for service connection.

Thank you.

STATEMENT OF
RICHARD F. SCHULTZ
ASSOCIATE NATIONAL LEGISLATIVE DIRECTOR
DISABLED AMERICAN VETERANS
BEFORE THE
SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
OF THE
COMMITTEE ON VETERANS AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
May 9, 1989

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the more than 1.2 million members of the Disabled American Veterans (DAV) and its Ladies' Auxiliary, I wish to thank you for the invitation to appear here today to express our views relative to the timeliness and quality of decisions rendered by the Veterans Benefits Administration (VBA) of the Department of Veterans Affairs (DVA).

At the outset, Mr. Chairman, the DAV wishes to commend you and the members of the Subcommittee for your continued interest in the operation of the VBA. For three consecutive years now, this Subcommittee has conducted hearings to determine how well our federal government administers the benefit programs authorized by Congress for our nation's disabled veterans, their dependents and survivors. Clearly, the Subcommittee's continued interest in the operation of the VBA reflects your commitment to see that America's veterans and their families receive the benefits to which they are legally entitled in a timely, qualitative and compassionate manner.

Mr. Chairman, as you know, the DAV's primary legislative interest is in the welfare of our nation's service-connected disabled veterans, their dependents and survivors. However, our National Service Program provides counseling and representation to all veterans, their dependents, and survivors.

The DAV employs 280 full-time, professionally trained National Service Officers (NSOs), in 67 offices nationwide, to provide skilled counseling and claims representation to all VA claimants who request it, free of charge, of course, and without regard to membership in our organization.

To insure that each individual claimant receives complete and thorough representation throughout the claims adjudication process, the DAV also maintains a National Appeals Office in Washington, DC., currently staffed by seven National Appeals Officers, a Staff Counsel, and a Medical Consultant.

Mr. Chairman, as you know, the mission of the Department of Veterans Affairs is to serve America's veterans and their families with dignity and compassion; and to be their principal advocate in ensuring that they receive the benefits, care, support and recognition earned as a result of service to this nation. In this context, the Veterans Benefits Administration is charged with the responsibility of ensuring that DVA claimants receive accurate, first-rate benefit determinations in a timely manner.

Mr. Chairman, over the past several years the DAV has provided this Subcommittee with our observations concerning problems which adversely impact upon the quality and timeliness of VBA decisions. These have included:

*the continued reduction of the number of employees in VBA;

*unacceptable time delays in receiving service medical records;

*unacceptable time delays in receiving inpatient and outpatient reports from DVA medical facilities;

*lengthy delays in scheduling and completing compensation and pension examinations;

*the DVA's preoccupation with end products;

*production standards for VBA adjudication personnel;

*the inadequacy and over-reliance on pattern letters; and

*the impersonal nature of computer generated correspondence.

Mr. Chairman, despite the continued efforts of VBA management and their employees to correct the problems which hinder their efforts to provide veterans with quality and timely decisions, the problems listed above continue to plague VBA. With your permission, I would like to discuss these and other issues affecting the timely delivery of quality benefit determinations to our nation's veteran community.

Mr. Chairman, over the past several years it has become apparent to everyone (except, obviously, OMB) that the quality and timeliness of VBA decisions have suffered greatly due to the continued decline in the number of employees within VBA. Since Fiscal Year 1978, VBA has experienced a nearly 40% reduction in staffing with a workload decrease of only one half that amount. As is readily apparent, twice as many employees have been eliminated from VBA than is justified by this slightly diminished workload.

Mr. Chairman, the devastating effects of continued VBA staff reductions on the timeliness of claims processing is perhaps best illustrated by the DVA's lowered expectations in terms of percentage of original compensation and pension cases to be completed within 90 days -- a period of time we believe to be reasonable. The DVA obviously shares this view since, for example, in 1979 the goal for processing original compensation claims was to complete 75% within 90 days, and to complete 80% of original pension claims within a 90 day time frame. The goals are now 50% and 70%, respectively, and VBA personnel are unable to meet these lower standards.

Accordingly, for the purposes of assessing field office performance, it is now acceptable to DVA management, that only 35% of original compensation claims and 55% of original pension claims be completed within 90 days. Fiscal Year 1987 data reveals that only 31% of original compensation claims and 53% of original pension claims were completed within this time frame. Perhaps more importantly, 25% of the original compensation claims and 12% of original pension claims were not completed within six months.

Mr. Chairman, the devastating effects of the continued loss of employees in VBA is also apparent when considering the large backlogs in compensation and pension cases. The DVA reported that in October 1987 there were 167,687 compensation and pension claims pending. By October 1989 they estimate this number will quadruple to nearly 700,000 compensation and pension claims pending. These backlogs, brought about by reduced VBA staffing, will exacerbate the already intolerable delays veterans are experiencing in their claims for compensation and pension benefits.

Mr. Chairman, as mentioned in our previous testimony before this Subcommittee, the loss of employees who perform clerical functions has severely hampered VBA efforts to provide veterans with timely accurate benefit determinations. Several regional offices routinely require upper level management employees and rating board personnel to perform routine clerical duties each month. This practice is another illustration of the extreme measures Regional Office Directors are forced to take as a result of the continued loss of employees.

We are encouraged however, by the recent successful pilot testing of a bar coding system for veterans' claims folders at selected regional offices. This system, similar to that used in department and grocery stores, will enable the VBA to better maintain control of veterans' claims folders, and provide veterans with more timely service. DVA rating board and adjudication personnel will then be able to devote more time to quality decision making. Hopefully, bar coding of veterans' claims folders will be placed into use at all regional offices in the near future.

Another factor affecting quality and timeliness is the large turnover in the employment of skilled employees within VBA. During 1986, there was a 25% employment turnover within VBA, in large part because of "early out" retirements. The loss of skilled employees, together with hiring freezes, increased the number of employees presently in training status, adding to the skyrocketing backlog of pending compensation and pension cases.

Delays Affecting Claims Processing

Mr. Chairman, an original compensation claim requires the procurement of certain documentation and evidence in order to establish service-connected status, as well as the degree of disability to be assigned. Obviously, service medical records are vital to this process. While we are aware of efforts by DVA and Military Personnel Records Center officials to expedite the receipt of service medical records by regional offices, our NSOs report that compensation claims continue to be unduly delayed awaiting the receipt of service medical records.

Recently, we were informed that a large backlog of requests for service medical records exists at the Army Personnel Center. In light of this large backlog VBA has instructed its regional offices not to make a second request for service medical records until 90 days have elapsed since the original request. Any subsequent request should be made at 60 day intervals thereafter. Obviously, efforts to enhance the timely delivery of service medical records to regional offices has thus far not succeeded.

Another concern among DAV NSOs continues to be the length of time it takes to receive inpatient, and outpatient records, and examination reports from DVA's own medical facilities. Far too many compensation/pension examinations are not being timely processed at DVA health care facilities.

As an example of these delays, we were recently informed that in December 1988 there were approximately 800 compensation and pension examination request backlogged at Washington, DC, DVA Medical Center -- in December 1988 waiting to be scheduled for an examination by physicians. In conjunction with new or reopened claims, many of these examination requests by rating board members were made in September or October 1988.

By mid-February 1989, the number of backlogged examination requests had grown to over 1300. We understand that many of these examinations have now been scheduled through this summer, but this fact pattern represents intolerable and unacceptable delays for disabled veterans seeking compensation and pension -- as well as unacceptable delays for regional office officials trying to obtain necessary evidence to render decisions in these claims.

Also, receipt of hospital and outpatient reports are delayed anywhere from two weeks to six months before reaching VBA rating boards. These long delays place many veterans in financial hardship -- especially those veterans who are unemployed or hospitalized by reason of their service-connected disabilities and who are dependent on the receipt of VA compensation payments to provide for themselves and their families.

Mr. Chairman, the problem of timely receipt of compensation and pension examinations and hospital records from DVA medical facilities is not new. As stated previously, excessive delay in the receipt of medical evidence by regional offices places the most needy veterans in financial hardship, oftentimes unable to meet rent and mortgage payments, nor other basic necessities. Increased efforts must be undertaken to solve this critical situation.

End Product Measurement

Mr. Chairman, VBA's system of measuring the timeliness of claims processing continues to be one of the most troublesome issues faced by regional office employees and DAV NSOs, as well. Essentially, end products are established in the VBA computer system (TARGET) for each claim received at regional offices, enabling VBA to track the time it takes to complete action on benefit claims.

The DAV fully understands the necessity to establish and monitor the completion of specific functions within the claims adjudication process. However, we do not agree with the use of timeliness standards that place undue pressure on regional office employees to complete action on compensation and pension claims, oftentimes at the expense of quality benefit determinations.

As you may know, the performance evaluation of VBA adjudication employees is evaluated based on three criteria: timeliness, production, and quality. It is apparent to DAV (and most VBA adjudication employees) that the primary emphasis is on timeliness and production rather than quality. This, we believe, creates an incentive for claims to be denied prematurely by not fully developing a veteran's claim.

For example, quite frequently veterans are requested to submit certain evidence to substantiate a claim for compensation, pension, dependency status, etc. Generally speaking, if this evidence is not received by VBA within a 60 day period, the claim is denied and an end product recorded. Should the evidence be subsequently received within one year of the claim, as provided for by law, another end product is established and recorded, creating an additional end product for the same claim.

Further evidence of inadequate or incomplete claims development can be found by reviewing the remand rate by the Board of Veterans Appeals (BVA). Basically, these are veterans' appeals which are returned by BVA to regional offices for additional action. For the first quarter of Fiscal Year 1989, BVA's remand rate was 20.6%. More than one of every five appeals was returned to regional offices by BVA to complete required claims development or to correct procedural deficiencies.

Training

Mr. Chairman, due to several years of inadequate budget requests by the Administration, VBA has been forced to reduce employee levels. As a result, many highly skilled regional office adjudication personnel have retired, leaving a severe shortage of highly trained employees to process current workload or train new regional office employees.

The lack of adequately trained rating board members and others responsible for the adjudication of claims, we believe, is definitely a factor in the high remand rate by BVA, and the increased number of appeals being filed by veterans and their representatives.

Mr. Chairman, we are pleased that the Administration's Fiscal Year 1990 budget request (as well as both the House and Senate Veterans Affairs Committees' budget requests) calls for the establishment of an Adjudication Academy to institute a comprehensive, standardized training program for new VBA adjudication employees. The DAV fully supports and endorses this proposal, and strongly urges the adoption of such recommendations. However, we also believe regional offices need a continuing training program for current adjudication personnel.

Pattern Letters

VBA's over reliance on pattern (computer generated form) letters continues to cause much confusion in the veteran community, and increases VBA's workload by generating additional correspondence and inquiries from veterans who are not adequately informed of the specific action taken on their claim. In defense of VBA employees, I must point out that the inflexibility of their ADP Equipment does not allow them to make necessary adjustments to pattern letters in order to properly explain specific actions taken, nor enable them to inform a claimant of the evidence considered in the adjudication of his/her claim.

Mr. Chairman, in a sense, it matters little how well a veteran's claim is processed by VBA employees, if a veteran is not provided a detailed informative notification letter from VBA advising them as to what evidence was considered and what specific action was taken on their claim. Veterans will continue to be confused about decisions rendered on their claims and needless extra work will continue to be generated by claimants requesting further explanation about VBA decisions. TARGET capabilities must be expanded or upgraded if VBA employees are to have the proper tools to do their jobs and if veterans are to receive informative notification letters pertaining to their claims.

Hearing Officer Program

Mr. Chairman, as you are aware, the new Hearing Officer Program changed the way personal hearings are conducted at regional offices. Prior to this new program, veterans who wished to appear personally before a rating board would have their hearings conducted by a three member board, occasionally the same board which originally denied their claim.

Under the new Hearing Officer Program, veterans now appear before a hearing officer whose sole responsibility is to conduct personal hearings and render an independent decision based on their review of the record, personal testimony and observations of the veteran, and any further development they deem necessary. Cumulative data for Fiscal Year 1989 reveals that additional development is needed in 44% of these cases and 26.5% of the hearings resulted in favorable decisions.

The DAV is generally pleased with the success of this new program. However, we are concerned with severe staffing shortages and scheduling delays at some regional offices. Fiscal Year 1989 data indicates an average backlog of 60 days in the processing of requests for hearings, with the delays at some regional offices as high as four months. Therefore, we urge the VBA to provide additional hearing officers at those locations where there are excessive delays in scheduling hearings.

Mr. Chairman, we were recently made aware of a new automated system which will enhance the record keeping, letters and reporting functions of hearing officers. This new system should improve timeliness in the hearing process and we commend VBA for these efforts.

Automated Data Processing (ADP)

Mr. Chairman, as indicated in the Independent Budget for Fiscal Year 1990 prepared by DAV, AMVETS, PVA, and VFW "... the time for action [on systems modernization] is long overdue; to delay is to regress." VBA's ADP is woefully inadequate and leads to further delays in the processing of veterans' claims.

When discussing VBA's TARGET system with DAV NSOs and several VBA employees, we find a general consensus to be that TARGET is archaic, inflexible and incapable of doing the job needed to be done. TARGET must be vastly improved if it is to provide meaningful enhancements in the delivery of benefits and services to our nation's veterans and their families. The Independent Budget recommended a supplemental appropriation of $15 million for Fiscal Year 1989 and $25 million for Fiscal Year 1990 to provide ADP enhancements.

It is imperative -- and we strongly recommend -- the establishment of a plan to bring VBA's ADP system into the 20th century, for to do less will only exacerbate the severe problems faced by VBA employees in their attempts to deliver quality and timely service to veterans.

Additionally, Mr. Chairman, we feel compelled to point out that any ADP enhancements (or promised enhancements) must not result in a further reduction of VBA employees. In the past, employee levels were excessively and prematurely reduced long before any program enhancements were realized in VBA operations.

* * *

Mr. Chairman, we have discussed several areas that concern us relative to the timely delivery of quality decisions on veterans' claims for benefits from the DVA. We sincerely hope that our observations and suggestions to correct these deficiencies are helpful to the Subcommittee and the DVA.

In this regard, I would like to briefly comment on the findings of a recent GAO report which investigated the processing of compensation and pension claims by VBA. GAO findings are consistent with our observations in that they are critical of VBA's written communications to veterans; the inadequate development in some claims; and VBA's ability to timely log in VA claims.

We are pleased to note this report indicates that GAO does not believe VBA violates due process protections in their adjudication of veterans' claims. In fact, this report noted, "...even though due process protections may not be required for benefit applicants, VA has none-the-less adopted administrative procedures designed to provide due process protections."

* * *

Mr. Chairman, there are a number of areas within the VBA that need to be addressed: Some of these critical areas include:

(1) inadequate employee levels within VBA;

(2) pressure on VBA employees to produce more and more end products which negatively affect quality;

(3) inadequacy of computer generated notification letters;

(4) excessive delays in obtaining service medical records, DVA hospital reports and treatment records and as well as compensation and pension examinations;

(5) the need for the training of adjudication personnel; and

(6) ADP enhancements and improvements in VBA's TARGET system.

While some of the above noted deficiencies can be addressed through aggressive management initiatives, the vast majority require increased funding to provide adequate employee levels in VBA, as well as necessary improvements in ADP operations .

Mr. Chairman, as you well know, the likelihood that DVA will receive sufficient funding to correct problems affecting the timely receipt of quality VBA benefit determinations by our nation's veteran community will not likely be forthcoming in the near future. Recognizing the critical nature of DVA's budget crisis, the delegates to DAV's most recent National Convention approved a resolution seeking the enactment of legislation to permit the VBA to accept gifts, bequests and devices designed to enhance DVA's ability to provide quality and timely assistance to our nation's veteran population.

As you know, Mr. Chairman, the Secretary of Veterans Affairs is currently authorized to accept devices, bequests and gifts to be used in conjunction with the operation of the Veterans Health Services and Research Administration (VHS&RA). In 1988 our DAV Chapters and Departments donated nearly $8 million in cash and other hospital and service related items to the DVA's health care facilities throughout the country. These donations cover a broad range of areas that include: kidney dialysis equipment; funding for special molecular research; wheelchairs, crutches, and canes; ambulance equipment; electronic speech devices; computer systems for intensive care units; hearing aids for needy patients; a washing machine for a nursing home; televisions; stereo equipment for speech therapy; clothing for patients; and, of course, the 92 vans donated to DVA health care facilities to transport sick and needy patients. The list of donated items is extensive and it becomes readily apparent that without the donations of DAV Chapters and Departments, as well as those of other groups, hospitalized veterans would not receive many of the services currently available to them at DVA health care facilities.

Mr. Chairman, it seems obvious the DAV donations listed above greatly enhance the DVA's ability to provide quality health care to our nation's disabled veterans. It therefore follows that the delivery of quality, timely services to America's veterans by VBA may also be substantially improved by allowing them to receive gifts, devices and bequests. Therefore, we respectfully request that careful consideration be given to amending current law to accomplish this worthwhile DAV objective.

This concludes my statement Mr. Chairman. Again, I wish to thank you for your continued interest in, and concern for, our nation's disabled veterans, their dependents and survivors.

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STATEMENT
of
VIETNAM VETERANS OF AMERICA, Inc.

PRESENTED BY

RICHARD E. O'DELL
Vice President
and
PAUL S. EGAN
Legislative Director

Before the House Veterans Affairs Subcommittee
on Compensation, Pension and Insurance
on
Operation of Department of Veterans Affairs'
Veterans Benefits Administration

May 9, 1989

Mr. Chairman and Members of the Subcommittee, VVA appreciates the opportunity to present its views on quality and timeliness of compensation and pension claims and the effect of the hearing officer program within the VA's Veterans Benefits Administration (VBA). We also appreciate the invitation to share our thoughts on the types of managerial initiatives the Department ought to be considering.

With the passage of the Veterans' Judicial Review Act of 1988, there is a need for increased concern by this Subcommittee over the operations of the VBA. Without substantial improvements initiated and completed soon by the VBA, we anticipate litigation both in this new court and in U.S. District Courts and the U.S. Court of Appeals for the Federal Circuit over fundamental issues that should have been corrected by management years ago.

Because most of our testimony will point to issues addressing the fairness of processing claims—procedural due process—we are appending to this statement our comments prepared in response to regulations proposed by the VA on Sept. 28, 1988. 53 Fed. Reg. 37,797.

SUMMARY

WHAT'S NEW SINCE THE LAST HEARING

—More Evidence of What's Wrong

Since the Subcommittee's hearing on May 26, 1988, there have been several developments that we believe further support the concerns we raised in our testimony last year. Since then, the General Accounting Office has released a significant report on the VA's Schedule for Rating Disabilities and apparently is close to releasing two additional highly critical reports: one on the VA's system for measuring the quality of its decisionmaking (Report HRD 89-9 due on May 14), another on the processing of claims (HRD 89-24).

WHAT'S NOT NEW SINCE THE LAST HEARING

—Management

The same top management is in place this year as was last year, and the year before that. The Department did announce recently the membership of a Commission to search for a new Chief Benefits Director. We urge that Commission to convene public hearings and to record its deliberations. We also urge that Commission to carefully question any potential nominee for Director on her or his plans for new staff members in the Compensation and Pension Service.

WORK THAT REMAINS TO BE DONE

NEED TO UPDATE VA DISABILTY RATING SCHEDULE

In December 1988, the General Accounting Office released its report on the VA disability rating schedule, 38 C.F.R. part 4. *Need to Update Medical Criteria Used in VA's Disability Rating Schedule*, GAO/HRD-89-28. The rating schedule is the key factor in $14 billion worth of VA benefits that are distributed each year—$10 billion in service-connected compensation and $4 billion in nonservice-connected pension benefits. If the schedule is not kept up-to-date and VA rating specialists have to guess how to use it, then some veterans will continue to be paid too little and other veterans may get nothing—and some veterans may be getting more than what Congress created the schedule to do.

GAO found the 1945 schedule to be seriously out-of-date. Fortunately, GAO also found that when VA adjudicators have to guess about which diagnostic code to assign to a condition not found in the schedule, they usually do guess correctly. We question the wisdom of management that permits multi-billion benefits programs to run on guesswork.

The management at the VA agreed in a letter to GAO on November 1, 1988, that the schedule should be brought up to date. However, as of April 24, 1989, when the Department published its plan for revising regulations during the next 12 months, nothing relating to the rating schedule was included. At a meeting with the veterans service organizations in early 1989, the Director of the Compensation and Pension Service stated that he expected to begin a systematic review of the schedule but only the "left side" of the schedule. In other words, whenever the VBA does begin to review the rating schedule, it plans to update only the medical terminology and diagnostic codes, not the "right side" which is the percentage of disability that is assigned to a particular level of disability.

By law, 38 U.S.C. § 355, the VA "shall from time to time readjust this schedule of ratings in accordance with experience." Surely, after 45 years, the VA has some basis on which to make improvements to the entire schedule. We understand that there is some concern in the veterans community that opening the door to changes in percentage of disabilities may result in wholesale reduction in benefit payments for 800,000 veterans. *DAV Magazine* (May 1989) at page 3. Not one of those veterans need to be concerned; if changes are made, the law provides for the changes to apply in the future. In fact, any veterans currently rated are likely to be "grandfathered" in for life.

The far greater and more present danger is in failing to re-evaluate the percentages assigned. Failing to conduct a thorough review may allow the public to perceive certain disabled veterans to be receiving an unfair advantage. Such a perception may have a dramatic—and adverse—impact on all veterans.

As an organization, VVA believes that if the process for administering benefits programs is fair, no one need fear a public and open review of the entire rating schedule. As described below, we do have some concerns about the current process for administering benefits programs.

IMPROVEMENTS NEEDED IN PROCESSING OF DISABILITY CLAIMS

We do not take this headline from thin air. We recently received a copy of a draft General Accounting Office report with this heading. Because we understand that the report is not final and that its conclusions are subject to revision, we will stick to the facts found by GAO.

Representative Don Edwards and Senator Alan Cranston had requested that GAO examine the VA claims process. The investigation was triggered by allegations raised by veterans challenging the $10 attorneys fee limit. A decision in that court case, *Nat'l Assn of Radiation Survivors v. VA*, No. C 83-1861 (N.D. Calif.), is pending following two months of trial in 1987.

Five VA Regional Offices were visited: Baltimore, Louisville, St. Petersburg, San Francisco, and Seattle. A total of 1,462 claims were reviewed that had been processed in Fiscal Year 1987. Given the significance of the findings, we are including several largely verbatim quotes from the 52-page draft and have appended a copy of the report to our testimony. The page number of the report is noted parenthetically following the excerpt.

> **Draft Report: Veterans' Benefits: Improvements Needed in Processing of Disability Claims (HRD 89-24)**
>
> **•Three aspects of VA processing should "clearly be improved:"**
> - standard notices sent to veterans do not provide meaningful information about decisions (pg 16);

- development of evidence needed to adjudicate claims is sometimes inadequate (pg 16); and
- claims are not always properly logged in to assure prompt processing (pg 16).

At least one of these problems adversely impacted the veteran in about 13 percent of the claims (1 out of 8 claims)—mostly by way of delaying claims processing.

In addition, in 72 percent of compensation claims and 39 percent of pension claims, VA did not always:

- provide veterans' representatives with a copy of the decision notice,
- send a notice to the veteran,
- provide veterans with information on their appeal rights and procedures, or
- send notice of administrative closures. [Administrative closure is a decision by the VA to take no further action, i.e., deny the claim.] (pg 18)

In 60 percent of compensation notices and about 28 percent of pension notices, there was insufficient information on the reasons for VA claims decision. Denial notices for compensation claims were especially poor because they often stated only that the claim was denied because service connection was not found. (pg 18) These notices did not explain why service connection was not found, did not identify the evidence considered in adjudicating the claim, did not provide any indication about how the VA reached its decision. In the statement of procedural and appellate rights, the VA tells a veteran to consider these types of facts when evaluating whether to appeal. (pg 19)

•Comparison with SSA
Social Security Administration notices provided claimants a more complete explanation of the decision than VA does. GAO believes it is equally important for veterans to know what evidence has been considered by VA and how it was used in reaching a decision. Without such knowledge, veterans are not in a position to make an informed choice about whether to appeal the decision. (pg 21)

•VA computer system
The TARGET system is not designed to accommodate review and evaluation of correspondence, changes, additions to notices or details of specific claim actions. Any change in a notice must fit into an area no more than 25 spaces wide.

•Veterans Not Always Notified of Administrative Closures
The administrative closure (or record purpose disallowance) is used to close claims by removing them from the TARGET system whenever veterans fail to provide requested evidence within a specified time period or fail to appear for a medical exam. Until a change in policy in February 1987, VA did not notify veterans of any record purpose disallowances. VA did not provide notices for about 16 percent of compensation claims and 11 percent of pension claims in which the record purpose disallowance was used. (pg 24)

•VA Sometimes Does Not Obtain Evidence Properly

- In 10 percent of compensation and pension claims, VA did not properly gather necessary evidence.

•VA Often Did Not Keep Veterans' Representatives Informed of Evidence Needs

- In 19 percent of compensation claims, VA did not send representative copies of letters requesting that veterans provide evidence.
- In 29 percent of pension claims, VA did not send representative copies of letters requesting that veterans provide evidence.

•Problems in Claims Control
VA procedures require that every claim be logged in and computer controlled. Control allows VA to identify workload by type of claim and to measure timeliness and productivity. VA does not consider delays in establishing control to adversely impact the veteran unless a claim is not logged in for 30 or more days. 6 percent of compensation and pension claims were not placed under control within 30 days. 30 percent were logged in between 8 and 30 days following receipt at the VARO. (pg 31)

•Quality Control Needs Improvement
VA relies on its Statistical Quality Control (SQC) system to determine the extent of errors. SQC cannot measure how well regional offices processed compensation or pension claims. The SQC system is not reliable because:

- the system uses inadequate case sampling and review practices that do not assure accurate results;

- regional quality control reviewers were not independent of regional management;
- central office oversight did not insure regional compliance with SQC procedures. (pg 33)

•VA Program Manuals and Procedures: Difficult to Use
VA has developed a procedural manual that describes claims processing. The manual (M21-1) does not provide clear, simple and easily identifiable guidance for claims processing. Adjudication staff stated that the manual was poorly written, difficult to understand, and did not provide sufficient processing guidance. The manual is not indexed by subject matter; it is not organized functionally; it is not kept current. (pp 33-34)

•Staffing Reductions Affected Supervision
Supervision in VA is important because of program complexity and the amount of judgment needed. Since 1985, staff reductions ranged from 3-21 percent. The ratio of supervisors to staff decreased from one for every 12 staff persons in 1985 to one for every 16 staff in 1988. More careful supervisory review could have prevented some of the problems identified. (pg 35)

VVA Comments on GAO Draft Report
The findings by GAO are a remarkable litany of problems that demand a responsible reply. What is equally astounding about these problems is that they are not new. The Department's Inspector General identified substantial problems with the quality control system in 1982. Report of Audit: Department of Veterans Benefits Statistical Quality control for Benefits Authorizations, *Issues Arising in Connection with NARS v. Turnage: Joint Hearing before Veterans Affairs Committees of the House and Senate*, 100th Cong., 1st Sess. 287 (1987) (hereinafter "Joint Hearings"). Seven years later those problems have not been addressed adequately.

A 1985 VA White Paper identified problems with development of essential claims by the VA, with defective notification to claimants, with record purpose disallowances. Procedural Due Process-Its Application to the Compensation and Pension Program, Joint Hearings at 173. Four years later those problems have not been adequately addressed.

Although Secretary Derwinski has suggested that Congress should back away from micromanaging the Department, the area of due process begs for managing. It remains to be seen whether the management will come from Congress or the courts but it is clear that adequate management has not come from the Department yet.

IMPROVEMENTS NEEDED IN PROCESSING OF DISABILITY CLAIMS—Part 2

There are two issues that the GAO draft report touched on that warrant further emphasis: (1) writing letters to veterans and (2) getting the rules together that govern the process.

•Writing Letters to Veterans
The experience of our Service Representatives with VA letters is similar to that found by GAO—namely that VA letters are routinely full of bureaucratic jargon. We are not alone in facing this problem. Some people within the VA Central Office are also concerned as is evident from this statement from an obviously dedicated but frustrated VA employee:

> I can only conclude that building a reasonable letter [from the VA's computerized library of stock paragraphs] depends on chance more than choice and that recent [GAO] allegations concerning our ability to confuse the veteran are significantly understated.

Few things are more frustrating than unresponsive, unsigned form letters. Surely in this era of computers and high speed laser printers, management could solve this problem. The fact is, despite the concern and willingness to work on the problem expressed by some employees, management has not begun to solve it.

•Getting the Rules Together
Adjudication specialists at 58 VA Regional Offices must apply a mind-boggling array of rules, procedures, guidelines, and policies. In order for our Service Representatives to adequately represent clients, they also must ferret out the appropriate rules. Doing so is a difficult task. Failing to do so successfully means some veterans do not get what they deserve.

On December 28, 1988, the Director of the Winston-Salem Regional Office wrote to the Deputy Chief Benefits for Field Operations:

> In years past our failure could be identified as individual or system discrepancies along with programming Now, becoming increasingly more important as a probable cause, is the multiplicity of operating instructions and procedures required for

> properly processing awards. A myriad of methods are used to disseminate information needed to process our workload. Generally speaking, operating instructions and procedures should provide an order and exact manner to process the workload. This is not the case. Some references are vague, in conflict with other instructions and often defy logic. If is very difficult, if not impossible, to locate the source document providing instructions for a particular action.
>
> The Compensation, Pension and Education Programs are governed by 38 United States Code and Code of Federal Regulations with their many amendments and guiding principles. We have 10 Education programs with different eligibility requirements along with additional criteria for establishing eligibility for entitlement to Compensation, Pension, Hospitalization, and Loan Guaranty benefits. We have operating instructions in the following manuals: M21-1, M22-2 with their changes, portions of M23-1; M28-1, MP-6, M21-4. There are DVB Circular series 20, 21, 22, and Program Guides. There are numerous Interim Issues, General Counsel Opinions, Bulletins, E-Mail, training letters, Hot Lines with interpretations or directions. Data Input with its many nuances is an additional system imposed on the Adjudicating personnel. The one major problem is finding the instructions when confronted with the problem.

The Director neglected to include in his list of materials the further problem that his staff must juggle whether a General Counsel opinion is precedential or conclusive or advisory. He might also be concerned as to whether the General Counsel has secretly taken a position on a matter critical to determining pensioners' countable income; for example, the implementation of 38 U.S.C. § 3010(h) in Chapter 9, M21-1, that "they [the General Counsel's attorneys] refuse to write … up formally so it won't be discoverable [in litigation]." In addition, is there a binding opinion from the Advisory Review Staff of the Compensation and Pension Service to be considered?

Ironically, the Director neglected to mention that in addition to those materials he itemized, the Winston-Salem office is one of the five Regional Offices that can file for waivers from the provisions of the guidelines that apply at the other 53 offices. He also has to keep track whether the requested waiver was granted or denied or conditionally granted (and if so, what are the conditions). This opportunity to be exempted from the rules that apply in the other stations is part of the Management Efficiency Pilot Project—an ill-advised project that secretly challenges what little procedural protections are available to claimants.

In our opinion, the problems experienced by this Director are not unique. We applaud his willingness to raise these issues with top management.

This Director and the 57 other Directors of regional offices might want to consider what the future holds following passage of the Veterans' Judicial Review Act. They will need to prepare soon to respond to the decisions of the U.S. Court of Veterans Appeals.

VVA suggests that the VBA prepare and make readily available at each Regional Office a comprehensive index that would enable VA employees, claimants, and representatives to locate those regulations, manuals, circulars, General Counsel opinions, advisory review opinions or other guidelines and materials that are relevant. We suggest that the VBA prepare an index similar to that used by the attorney-advisors at the Board of Veterans Appeals, the VADEX. Of course, for some years, just such an index has been required by the Freedom of Information Act, 5 U.S.C. § 552. Do not be mislead by the VA. The current official DVA Publications Index, 1-03-1 (March 1989), includes no reference to the Hearing Officer Program as a subject matter—or to due process.

HEARING OFFICER PROGRAM

The VVA Service Representatives who have had hearings before a hearing officer like the opportunity. Claimants who appear in person at hearings win more often than those who do not appear. Hearings are almost always good to have.

We see two major problems with the Hearing Officer program: (1) guidelines describing the process have not been published for veterans and representatives to learn critical facts about the program, and (2) some hearings before Hearing Officers should not be called hearings.

As we noted in our testimony one year ago, we believe the VBA's failure to publish rules on the hearing officer program is a violation of the Administrative Procedure Act. More importantly, failure to publish the rules means that some claimants will not know that:

- **the best time to request a hearing before a Hearing Officer is before the Statement of the Case is issued to ensure adequate development is completed;**
- **filing a VA Form 1-9, Substantive Appeal, before the hearing defeats the purpose and value of the hearing;**

- the deadline to file the VA Form 1-9 is not extended during the time between asking for a hearing, having the hearing and getting the decision; or
- the limits of the authority of the Hearing Officer.

The "hearing" that should not be called a hearing is one held after the VA Form 1-9 has been filed. Once the VA Form has been filed, the jurisdiction of the Hearing Officer changes and the Hearing Officer becomes a surrogate for the Board of Veterans Appeals. VBA Cir. 20-89-11, para. 2c(4). That "hearing" is only for the purposes of creating a transcript to be forwarded to the Board of Veterans Appeals for decision. There might be some utility to such a hearing if the Hearing Officer guidelines directed that some assessment of the credibility of the claimant and witnesses be recorded. If that were done, the Board of Veterans Appeals would have the benefit of that assessment which is one of the purposes of a face-to-face hearing. That is not done.

Why isn't the veteran who does learn about the opportunity to have a hearing, told about this significant difference in the jurisdiction of the Hearing Officer once a VA Form 1-9 is filed. Without that warning, veterans may unwittingly lose a significant chance to win. We understand that 15 percent of veterans who appear for their hearing are winning.

We believe that hearings are useful opportunities for claimants. The opportunity should be described openly and publicly in VA press releases, in understandable letters to applicants, and, pursuant to the Administrative Procedure Act, in the Federal Register for public comment.

MANAGERIAL INITIATIVES

We suggest the following managerial initiatives are appropriate:

- Comply with the law to create an adequate index to VA rules and guidelines to make applying for veterans benefits easier and more certain for claimants, VA adjudicators and representatives.
- Comply with the law to get regulations and guidelines in place publicly and quickly; stop the current practice of only proposing changes in regulations years after the law changes and then making the changes retroactively effective.
- Comply with the law and place regulations and guidelines in public reading rooms at each VA Regional Office for claimants and representatives to use.
- Comply with the law and properly develop claims.
- Comply with basic notions of due process and prepare letters that can be understood by the persons to whom they are intended to serve.
- Comply with basic notions of due process and send letters to claimants and representatives.
- Set a firm and short timetable to revise the entire 45-year old Schedule for Rating Disabilities.
- Promote staff that expresses a desire to develop policies to help veterans.
- Give bonuses to staff that develop policies to help veterans, not to top management that has failed to implement policies required by law.
- Remove staff who have failed to implement adequate means of enforcing procedural due process.

LEGISLATIVE RECOMMENDATIONS

We also offer the following legislative suggestions for this Subcommittee. We are mindful of the admonition of the new Secretary that you not micro-manage the Department; however, the evidence before you is more than adequate to document a continuing failure of top management that warrants direct Congressional action.

- Enactment of a Veterans' Bill of Rights to mandate that the Department comply with basic notions of due process. Such a bill should include provisions to ensure:
  —notices in plain language,
  —notices signed by a human,
  —timely notices,
  —notices that are provided to counsel,

—notices that specify the actual deadline (the day, month and year) for appealing a denial or responding to requests,

—opportunities for face-to-face hearings before impartial decisionmakers,

- Including a firm and short timetable in any legislation requiring implementation by regulations of the dates on which regulations will be proposed, comments considered, and final rules issued.

APPENDICES

1. VVA comments on VA proposed rules regarding procedural due process. 53 Fed. Reg. 37,797 (to be codified at 38 C.F.R. §§ 3.103, .105, .109, .110, .114).
2. Veterans' Benefits: Improvements Needed in Processing Disability Claims, HRD 89-24 (draft).

APPENDIX 1

VVA Comments on Proposed VA Rules regarding procedural due process

Administrator of Veterans Affairs (271A) October 28, 1988
810 Vermont Avenue NW
Washington DC 20420

Dear Mr. Turnage:

The following comments are submitted on behalf of the Vietnam Veterans of America in response to the September 28, 1988 publication of proposed rules regarding procedural due process. 53 Fed. Reg. 37,797 (to be codified at 38 C.F.R. §§ 3.103, .105, .109, .110, .114).

We are pleased that the agency is addressing due process matters through a public rulemaking procedure. We are aware of several circulars distributed over the past year by the Department of Veterans Benefits on significant aspects of due process that have not been published in the Federal Register or submitted for rulemaking; namely:

- Due Process Procedures for Running Awards, DVB Cir. 21-87-25 (Sept. 25, 1987);
- Failure to Report for Scheduled VA Examination, DVB Cir. 21-87-17 (Nov. 23, 1987);
- Hearing Officer Procedural Instructions, DVB Cir. 21-88-11 (June 17, 1988).

Many of our comments may appear to impose requirements for more detailed explanations for claimants that may delay efficient processing of claims. We are sympathetic to the need of an agency as large as the Veterans Administration to operate as efficiently and as productively as possible. We also understand the loss of personnel the Department of Veterans Benefits has experienced over the last few years. However, the VA has certain fundamental obligations to this country's veterans and their families that simply cannot be sacrificed for the sake of maintaining productivity or efficiency.

We believe that if the VA will provide more complete information to claimants regarding both the agency's process for evaluating their claim and the substantive rules that govern the outcome of VA decisions from the beginning of the application process, claimants will be better able to understand the basis for the agency's actions. By being better informed of the process and basis for denials, claimants may (1) either properly drop any appeal that would further tie up agency resources needlessly or (2) they will be able to gather the relevant documentation to better present their claim on appeal. If the agency continues to issue cursory, unsigned, undetailed letters written in bureaucratic jargon that fail to adequately explain the VA's reasons for its actions, agency resources in regional offices and at the Board of Veterans Appeals will be wasted later trying to explain the basis for the decisions.

The following comments are organized to correspond with the sections of the proposed rule. We are offering two kinds of comments: (1) suggestions for specific changes in the text of the proposed rules and (2) suggestions for implementing the rules.

§ 3.103(a) Procedural due process and appellate rights. Statement of policy.

We believe this statement should be expanded to be consistent with the recently passed Veterans' Judicial Review Act regarding notice of independent medical examinations. S. 11 ("The Administrator shall furnish a claimant with notice that an advisory medical opinion has been requested under this section with respect to the claimant's case and shall furnish the claimant with a copy of such opinion when it is received by the Administrator." (to be codified at 38 U.S.C. § 3009(c)).

Notice should be provided to both the claimant and his or her properly designated representative of the following types of agency actions:

1. requests for an advisory opinion;
2. requests for an administrative review;
3. requests for an administrative appeal;
4. requests for a legal opinion of the VA District Counsel or VA General Counsel;
5. requests for a medical opinion of a VA health care professional.

We understand from Mr. Gary Hickman that advisory opinions obtained from the Advisory Review Staff at the Compensation and Pension Service are binding on rating boards and Hearing Officers. An opportunity to examine and rebut such an opinion prior to its application to a case is important. Although a claimant may have access to his or her claims file, merely filing opinions in the file would not serve to adequately notify a claimant of the existence of the opinions.

Finally, we believe that in connection with the stated obligation on the agency to assist a claimant in developing the facts pertinent to the claim, it is important that the agency make readily available to claimants those regulations, manuals, circulars, General Counsel opinions, advisory review opinions or other guidelines and materials (including those administrative issues prepared by the agency of original jurisdiction) that would assist the claimant in understanding what is pertinent. To accomplish this, we propose the agency inform claimants of the availability of these materials in public reading facilities at each VA office. To fairly make these materials accessible, it is incumbent upon the agency to prepare and make readily available a comprehensive index that would enable claimants to locate those regulations, manuals, circulars, General Counsel opinions, advisory review opinions or other guidelines and materials that are relevant. We suggest that the agency prepare an index similar to that used by the attorney-advisors at the Board of Veterans Appeals, the VADEX.

•Specific recommendation: Add to the end of the first sentence of para. (a):

> to be provided to the claimant at his or her last known address available to the agency and to any properly designated representative of the claimant.

•Add the following two sentences between the second and third sentences of para. (a):

> Part of such assistance includes being provided (1) notice that an advisory opinion, an administrative review, an administrative appeal, a legal or medical opinion has been requested; (2) a copy of any opinion, review or appeal when it is received by the requesting official; (3) notice of the opportunity to review VA regulations, manuals, and circulars, General Counsel opinions, advisory opinions or other guidelines in a public reading facility maintained at the nearest VA office. In any case initiated by the VA on its own motion, notice of such review must be provided to the claimant at his or her last known address and to any properly designated representative of the claimant.

Suggestion on implementation: In this subparagraph and in (b) and (e), there is a reference to the right to representation. We suggest that in any revision of standard paragraphs or enclosures relating to the right to representation that the agency note the availability of free attorney representation through Legal Aid and Legal Services offices. We understand that notice relating to the right to representation will necessarily be revised given the passage of the Veterans' Judicial Review Act. However, for that segment of the veterans' community that may desire to obtain the services of lawyer counsel but may not be able to afford to retain such counsel, there are 1200 offices funded by the federal Legal Services Corporation which provide representation to low income persons.

§ 3.103(b)(1) The right to notice. General.

We believe it is important that the agency make every effort to ensure that notices are mailed to the correct address for both the veteran and any representative. In addition, we have often received complaints from claimants that the notice they did receive really offered no explanation for the VA's proposed action or they do not understand the language used in some letters. We strongly encourage the agency to use detailed explanations in plain English.

At the same time, we believe that given the numbers of persons for whom Spanish is their primary language, each VA notice (and VA form) should contain an offer that an edition of the notice (or form) in Spanish is available upon request. The offer should be made in Spanish.

To avoid the application of one rule for persons living in Illinois and a different rule for persons living elsewhere, we suggest that the "reasons for the decision" be more detailed and mirror the requirement in *Semenchuk v. Walters*, No. 84 C 3132 (N.D. Ill.*consent decree* August 10, 1987).

•Specific recommendation: Revise the first sentence to read:

> Claimants are entitled to notice at their last known address of any decision made by the VA affecting the payment of benefits or the granting of relief.

•Specific recommendation: Revise the second sentence to read:

> Such notice shall clearly set forth the decision made, any applicable effective date, a detailed statement of reasons for the decision including a citation to the applicable regulations , ... The statement of reasons must provide facts indicating the exact change in circumstances on which the VA is acting to include recitation of any change in medical condition or employability or in income, net worth, marital status or number of dependents and the specific computations used to calculate the change in benefits.

§ 3.103(b)(2) The right to notice. Pre-termination/reduction notice.

The beginning of this sentence, "Except as otherwise provided," is confusing. Although a careful reader would eventually come to what is "otherwise provided," we believe it would simplify matters if a cross reference to the exceptions were substituted here.

§ 3.103(b)(3) The right to notice. Exceptions.

One of the exceptions to the requirement of pre-termination notice is "when a benefit check is returned as undeliverable." § 3.103(b)(3)(i). We believe this language should be expanded to note that the agency is obligated to make a reasonable effort to locate such an individual by at least reviewing the claims file, loan guaranty file or any other filing systems maintained by the agency for a more current address before simply stopping payments.

Another exception to the requirement of pre-termination notice is when a beneficiary provides information "with knowledge or notice that such information would be used to calculate benefits." § 3.103(b)(3)(ii). According to DVB Cir. 21-87-25 (Sept. 25, 1987), para. 3(a)(2), "'knowledge or notice' will be considered to have been met if in the claims folder there is evidence which establishes that the beneficiary was previously sent an EVR instruction sheet, the appropriate award attachments (as indicated on the file copy of the award form), or a dictated or computer-generated letter or notice which (in itself or via attachments) informed him/her of the reporting requirements."

We agree with the March 1988 General Accounting Office finding that the Eligibility Verification Report instruction sheets "contain bureaucratic jargon, long and complex questions, poorly defined terms, and unclear instructions, and to be printed in a type size that would be difficult for much of the respondent population to read." *Veterans' Pensions: Verifying Income With Tax Data Can Identify Significant Payment Problems*, GAO Rpt. HRD-88-24, at page 31.

Given this GAO finding, we believe that it is unreasonable to presume "knowledge or notice" that information provided by the claimant on the EVR would be used to calculate benefits. Pension benefits are only available to persons with extremely minimal resources. It is especially important that reductions or terminations of pension benefits only occur after truly adequate notice. There should not be a blanket presumption of knowledge particularly where, as here, the notice provided is demonstrably inadequate for "much of the respondent population."

A third exception to the requirement of pre-termination notice is where the adverse action is based upon the beneficiary's failure to return a required EVR. We have received numerous complaints from veterans and survivors that they had not received notice of the filing requirement. Unless the agency is able to produce a copy of the letter of transmittal of the EVR from the claims file which contains a date of mailing, the last known address of the beneficiary and address of any properly designated representative, no adverse action can fairly be taken.

•Specific recommendation: Modify proposed § 3.103(b)(3)(i) to read:

> (i) Benefits checks are returned as undeliverable and reasonable efforts to locate a more current address, including a search of the claims file, loan guaranty file or any other filing systems maintained by the agency, are unsuccessful,

•Modify proposed § 3.103(b)(3)(ii) to add at the end:

> (ii) ... (No presumption of notice or knowledge will be applied.),

•Modify proposed § 3.103(b)(3)(iii) to add at the end:

> (iii) ... so long as a copy of the letter of transmittal of the EVR is in the claims file and contains a date of mailing, the last known address of the beneficiary and address of any properly designated representative,

§ 3.103(c)(1) The right to a hearing.

A right to a hearing is extremely valuable. Claimants that attend hearings succeed more often than those who do not attend. Given the importance of this right, limiting hearings only to offices having "adjudicative functions" is unreasonable. If functions of VA Regional Offices are consolidated so that certain offices no longer have "adjudicative functions," the distances some claimants would have to travel could be extreme and prohibit taking advantage of the opportunity for a hearing.

Moreover, there has been a long-standing agency practice of convening hearings outside VA Regional Offices; e.g., in Cincinnati, Ohio, and Wilkes-Barre, Pennsylvania. In addition, following initiation of litigation by the Legal Aid of Western Missouri in Kansas City (Butler v. Turnage, No. 86-1310-CV-W-3) the agency has agreed to convene hearings in Kansas City rather than force the claimant to travel to St. Louis.

We believe it would be appropriate for the regulation to permit hearings to be convened at any VA facility or other facility when failing to do so would effectively deny a claimant the opportunity for a hearing. This opportunity could be limited to those situations in which due to poor health, advanced age, indigency or similar circumstances of the claimant that the requirement of travel to an office with adjudicative functions would effectively deny them the opportunity to appeal and present their case.

Optional provisions for hearings should be offered to include telephone conference calls and two-way television proceedings.

Of course, once claimants have made the effort to attend a hearing, they should have the opportunity to face those persons who will decide the outcome of their case. The proposed regulations offer "VA personnel who have original determinative authority of such issues to conduct the hearing and be responsible for establishment and preservation of the hearing record." This does not mean that those VA personnel who conducted the hearing will make the decision. We believe this language must be modified to provide hearings before those persons who will make the decision.

At a minimum, VA personnel who conduct hearings but who do not make decisions must be required to assess the credibility of all witnesses and to report in writing that assessment to those VA personnel who will in fact make the decision. Otherwise, a key element of the right to, and the purpose of, hearings will be lost.

•Specific recommendation: Modify the second sentence to read:

> The VA will be responsible for arranging the place of hearing. Normally, the place of hearing will be the VA office nearest the claimant's home or in the VA office having original jurisdiction over the claim and will be conducted by VA personnel who will decide the issues raised. For claimants for whom travel to a VA office is not possible due to their ill health, advanced age, indigency or similar circumstances, the VA will make every reasonable effort to arrange for a hearing at a location that would enable the claimant to attend. Where, despite the best efforts of agency personnel, an in-person hearing cannot be arranged, a telephonic or two-way televised hearing will be arranged. Indigency will be presumed for persons in receipt of or applying for any VA pension.

•Specific recommendation: Modify the last sentence to read:

> All expenses incurred by the claimant in connection with the hearing are the responsibility of the claimant except for those claimants or beneficiaries who are in receipt of or raising issues regarding any VA pension benefits or are unemployed. Such claimants or beneficiaries shall be reimbursed for their travel expenses to and from the site of the hearing in the same manner and at the same rate as persons who are reimbursed for travel in connection with disability examinations.

•Specific recommendation: If the first recommendation above is rejected and the agency provides only personnel with determinative authority but not those who will decide the case, add the following between the second and third sentences:

> VA personnel who conduct hearings but who do not decide the case are required to assess the credibility of all witnesses and to report in writing that assessment as part of the hearing record.

§ 3.103(c)(2) The right to a hearing.

In certain cases in which veterans have not been successful in securing the voluntary cooperation of VA employees or other persons or entities in order to obtain important medical records or other documents, it may be necessary for the VA to subpoena such materials. There is statutory authority to issue a subpoena. 38 U.S.C. § 3311. What is missing from the proposed regulations is notice of the opportunity to request that a subpoena be issued and a cross reference to the pertinent regulation: 38 C.F.R. § 2.1.

§ 3.103(e) The right to representation.

Once a representative has been properly designated by the claimant, that representative must receive copies of all correspondence and the claimant must have assurances of that. Failure to supply copies to the representative should extend the deadlines for perfecting or challenging an adverse decision in the same fashion as failure to provide notice to the claimant.

•Specific recommendation: Revise this sentence to add at the end:

> and once properly designated, such representative shall be provided copies of all correspondence sent to claimant. Failure to furnish a properly designated representative with a copy of notice sent to the claimant shall extend any applicable time limits.

§ 3.103(f) Notification of decisions.

This section needs to more fully describe the decision that is to be provided.

•Specific recommendation: Revise the second sentence to read:

> Such notice shall clearly set forth the decision made, any applicable effective date, a detailed statement of reasons for the decision including a citation to the applicable regulations, as well as the right to request a hearing. The statement of reasons must provide facts indicating the exact change in circumstances on which the VA is acting to include recitation of any change medical condition or employability or in income, net worth, marital status or number of dependents and the specific computations used to calculate the change in benefits.

§ 3.105(h)(1) Predetermination hearings.

Adequate time to consult with a representative and prepare for a hearing is important. A minimum lead time between notice and date of hearing should be specified.

•Specific recommendation: Revise the second sentence to read:

> If a timely request is received, the VA will notify the beneficiary and his or her representative in writing of the time and place of the hearing within a reasonable time, but not less than 10 days, in advance of the scheduled hearing date.

§ 3.105(h)(2) Predetermination hearings.

The language of this section should be modified to provide that failing to report for a scheduled predetermination hearing where health problems or hospitalization or other circumstances beyond the control of the individual are present excuse the failure to appear. In those circumstances, the VA should notify the beneficiary of the opportunity to reschedule the hearing. Failing to report where good cause exists for the failure should also further defer any adverse action until after the hearing is held.

The proposed regulation states that "evidence obtained following the hearing pursuant to necessary development" will form the basis for the decision. This must be modified to ensure that any such evidence obtained following the hearing must be provided in advance of the decision to both the claimant and representative.

•Specific recommendation: Revise the second sentence to read:

> If a predetermination hearing was not requested or if the beneficiary failed without good cause to report for a scheduled predetermination hearing, the final action will be based solely upon the evidence of record. Good cause for failing to report includes health problems or hospitalization or other circumstances beyond the control of the individual.

•Specific recommendation: Add between the third and fourth sentence, the following:

> Any additional evidence obtained by the VA following the hearing pursuant to development by the VA must be provided to claimant and representative in advance of any VA decision in order to afford the claimant an opportunity to review or rebut that evidence.

§ 3.109(b) Failure to furnish notice of time limit.

Given the importance of time limits, it is essential that notice of the correct deadlines be provided to both claimant and properly designated representative. Failure to provide the correct notice to both claimant and representative should serve to extend the deadline. The deadline should be calculated from the date the VA does provide notice of the correct deadlines to both claimant and representative. Failure of the agency to be able to produce a copy of a notice of deadlines should be deemed evidence of noncompliance.

In the explanatory statement relating to this subsection, the VA admits that this language "is ▯ inappropriate with respect to due process." 53 Fed. Reg. 37,799. As such, the effective date of this revision should be made retroactively effective to the date the inappropriate provision first appeared.

•Specific recommendation: Revise the sentence to read:

> Failure to furnish a claimant, beneficiary and his or her designated representative notice of the correct time limit within which evidence must be submitted to perfect a claim or challenge an adverse VA decision shall extend the time limit for such action in accordance with the provisions of § 3.110 of this part. When a claimant, beneficiary or representative allege nonreceipt of notice of a time limit, failure of the VA to produce a file copy of the notice on which appears the last known address of the claimant or beneficiary and representative will substantiate the allegation.

We appreciate this opportunity to comment on these very important regulations and would welcome the opportunity to discuss the matters raised above with your staff. The contact on my staff for these matters is Keith Snyder with our Legal Services office.

Sincerely,
/s/ Mary Stout, President

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

JUL 21 1989

Honorable G. V. (Sonny) Montgomery
Chairman, Committee on
Veterans' Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed please find the Department's responses to questions raised by Representative Bob McEwen following the May 9, 1989, hearing on the timeliness and quality of the processing of claims by Veterans Benefits Administration. A copy of these responses has been provided to Representative McEwen.

Sincerely yours,

Edward J. Derwinski
Edward J. Derwinski
Secretary

Enclosure

cc: Honorable Bob McEwen

QUESTIONS SUBMITTED BY HON. BOB MCEWEN

1a) WHAT EXPERIENCE WILL THE INSTRUCTORS FOR THE ADJUDICATION ACADEMY HAVE?
b) WILL THEY BE FAMILIAR WITH THE ADJUDICATION WORK THAT IS DONE IN THE REGIONAL OFFICES?

It is our intention to obtain our best and brightest regional office personnel to staff the Adjudication Academy. Instructors at the Academy will have, on the average, over ten years experience as adjudicators and/or rating board specialists. Virtually all of that experience will have been gained in one or more of the 58 adjudication divisions throughout the VBA system.

2) WITH THE NEW MANAGEMENT INITIATIVES BEING PUT IN PLACE, WHEN CAN WE EXPECT TO SEE SOME PROGRESS IN THE DELIVERY OF BENEFITS TO OUR VETERANS?

Improvement in the delivery of benefits can be expected in the last quarter of FY 1990 and in FY 1991. The first initiative that will have a direct bearing on the timeliness of claims processing will be the training of personnel at the Adjudication Academy. The first positive effect will be that the personnel formerly used to do the training at the regional office will be available to process claims. The second positive effect will be the returned trainees, ready to begin processing claims.

An initiative to expedite the exchange of information between regional offices and medical centers has been tested in Atlanta and Columbia and is currently being tested in St. Petersburg. If all tests are successful, the Automated Medical Information Exchange (AMIE) may be available for system-wide export in FY 1990. It could be installed in FY 1990 if funds are available to purchase the necessary hardware. Implementation of AMIE would expedite award increases to service-connected veterans who are hospitalized for a period of over 21 days, reduce the number of unnecessary adjustments made on hospitalized veterans receiving pension and free adjudication clerks to do more productive work on claims.

Another initiative that will help to improve timeliness is the automation of non-computer generated letters. This concept is currently being developed and must be tested at a regional office. System-wide implementation of this initiative is not expected until FY 1991.

3) HOW HAS THE LACK OF ADEQUATE FUNDING FOR YOUR DEPARTMENT FOR FISCAL YEAR 1989 AFFECTED TIMELINESS IN THE PROCESSING OF CLAIMS FOR VETERANS' BENEFITS?

Budget constraints in the last few years, as well as other factors, have had a negative impact on timeliness. Timeliness statistics for the last few years have continued to deteriorate:

C&P TIMELINESS
(12 month cumulative, percent of claims processed in 180 days)

	1986	1987	1988	1989 FYTD	Goal
Original Compensation	79.6%	74.6%	70.3%	69.3%	90%
Original Pension	90.3%	87.8%	86.1%	85.9%	96%
Reopened claims	90.7%	88.5%	86.3%	83.0%	96%

4a) WHY ARE DELAYS BECOMING MORE PREVALENT?
b) IS IT DUE TO SHORTAGES IN STAFFING? DUE TO THE LACK OF GOOD MANAGEMENT AT THE REGIONAL OFFICE LEVEL? CENTRAL OFFICE?

The primary cause of the delays is the increased complexity of the veterans benefits programs, and the laws and the regulations that govern them. Recently revised work rate standards show that, on the average, it takes 6.8% longer to complete a claim. Adjudicators are responsible for having a comprehensive knowledge of the compensation and dependents' indemnity programs. In addition, they must have the same kind of in-depth knowledge regarding three pension programs, almost a dozen education programs, and a myriad of special, ancillary programs. This burden is not usually recognized when workload statistics are analyzed.

5) TO WHAT EXTENT HAS THE DECISION IN THE CASE OF SEMENCHUK VS WALTERS AFFECTED YOUR DEPARTMENT'S ABILITY TO FIND COMPETENT HEARING OFFICERS, SINCE THOSE WHO WERE PREVIOUSLY INVOLVED IN THE ORIGINAL DECISIONS ARE PRECLUDED FROM PARTICIPATION?

The Semenchuk case did not have any impact on the selection of individuals to be hearing officers. The individuals selected were, and will continue to be, of the highest caliber. The hearing officer program has been in effect since October 1988. It has been well received by claimants, beneficiaries and service organizations. In the few instances where a newly-installed hearing officer had been part of the decision prior to the requested hearing, arrangements have been made to have another hearing officer conduct the hearing.

6a) COULD YOU GIVE US SOME IDEA AS TO WHAT IS ACTUALLY INVOLVED IN YOUR DEPARTMENT'S EFFORTS TO SECURE RECOUPMENT OF DEBTS?

b) HOW LONG DOES IT TAKE?

c) WHAT PROCEDURES ARE USED?

d) DO YOU INVOLVE THE DEPARTMENT OF JUSTICE?

6a) To achieve centralization and automation of the collection process, the Centralized Accounts Receivable System (CARS) was established in 1975. Until 1985, CARS collection tools consisted of sending three collection letters and referring eligible accounts for litigation.

In 1985, the Debt Management Staff was formed. One of the primary functions of the Staff is to increase the effectiveness of the debt collection effort. To achieve this end, the following initiatives have been implemented by the staff since its creation in August 1985:

(1) Installation of a toll-free telephone system at CARS to provide debtors with easy access to information and to establish payment plans.

(2) CARS referral of delinquent debts to credit reporting agencies.

(3) CARS referral to IRS for offset of Federal income tax refunds.

(4) CARS referral of Federal employees' debts for salary offset.

(5) CARS implementation of an expanded annual write-off program for uncollectable debts.

CARS is now a comprehensive, automated collection system that services accounts from establishment to disposition by integrating all the collection tools listed above.

6b) The collection effort for VA compensation & pension (C&P) overpayment debts begins immediately upon the discovery of the overpayment. Our goal is to secure immediate payment in full of all debts. When this is not possible, a compromise offer may be accepted, or a repayment plan or benefit offset schedule may be established if appropriate. Except in extreme cases, all compromises must be paid in one lump sum payment, and repayment plans are not to exceed three years.

The length of time it takes to resolve an individual account will vary greatly according to the specific circumstances involved and the actions taken by both the debtor and VA. The process may be completed swiftly if the debtor responds with payment in full, or it may last up to ten years until all our collection efforts have been exhausted.

6c) When a suspected C&P overpayment is discovered, the beneficiary is informed of his or her due process rights and advised that VA will take the appropriate action either to terminate the award or begin withholding benefits after due process has been given. If the beneficiary does not successfully dispute the overpayment and is still entitled to benefit payments, the entire amount of the monthly entitlement will be withheld unless a reduced withholding amount is requested and granted. At the present time, accounts with running awards are not referred to CARS and are maintained at the regional offices. If the debtor's benefits award is terminated, a record of his account is automatically established in CARS.

WRITTEN COMMITTEE QUESTIONS AND THEIR RESPONSE

CARS' first step is to send a series of collection letters to solicit either a written response from the debtor or a call by the debtor to the toll-free number. If no satisfactory response is received within 120 days, an account is reported to credit reporting agencies.

Most CARS accounts that remain delinquent are then referred to IRS for offset of any Federal tax refunds that the debtor may be due. Debtors are first advised that they can avoid this referral if they make satisfactory arrangements to liquidate the debt.

If the debtor is a Federal employee and other collection actions have failed to recoup the debt, he is advised that up to 15% of his disposable net pay will be offset unless arrangements are made to liquidate the debt by other means.

6d) For seriously delinquent debts where all other efforts have proven unsuccessful, VA will litigate using either our own District Counsels, U.S. Attorneys, or private attorneys working with the Department of Justice. U.S. Attorneys and private attorneys handle those litigation cases where the debt balance exceeds $5,000. Total litigation referrals in FY 1988 were $15 million.

Eventually, if all our collection resources have been exhausted and an account appears to be uncollectable and not cost-effective to maintain in CARS, we will write off the account. If the debt balance exceeds $600, the amount written off is reported to the IRS as taxable income.

With regard to future initiatives, by October 1989 we plan to have consolidated all C&P debts, including those with running benefit awards, into CARS. By March 1990 we plan to have installed an automated dialing system to supplement CARS collection activity by making full use of the telephone as a collection tool.

7) DO YOU FEEL THAT THE COLOCATION OF REGIONAL OFFICES IN CLOSE PROXIMITY TO THE VA MEDICAL CENTERS HAS BEEN HELPFUL IN CUTTING PROCESSING TIME IN THE ADJUDICATION OF CLAIMS?

Yes. Colocated regional offices and medical centers (or outpatient clinics) historically have had less timeliness problems in the processing of those claims where an examination was carried out, or a hospital report was requested. In addition to the time saved in the transit of documents, communications are considerably better at these facilities, resulting in a faster response time when additional information is needed from the claims file or medical records.

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